Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)

Updated August 2026

The purpose of the Edward Byrne Memorial Justice Assistance Grant (JAG) FAQs document is to provide detailed information about the program to states, tribes, territories, the District of Columbia, and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local notices of funding opportunity (NOFOs) or grant award documents.

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OVERVIEW

1. **What is the JAG Program?**

   The JAG Program is a formula grant program which serves as the leading source of federal justice funding to state and local jurisdictions. It was named after Edward "Eddie" R. Byrne, an officer in the New York City Police Department who was murdered while protecting a witness in a drug case. The JAG Program provides states, tribes, and local governments with critical funding necessary to support personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings including for any one or more of the following programs:

   - law enforcement;
   - prosecution and courts;
   - prevention and education;
   - corrections and community corrections programs;
   - drug treatment and enforcement programs;
   - planning, evaluation, and technology improvement;
   - crime victim and witness programs (other than compensation);
   - mental health programs and related law enforcement and corrections programs,

including behavioral programs and crisis intervention teams;
- implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts, drug courts, veterans courts, and extreme risk protection order programs;
- programs to purchase and operate unmanned aircraft systems (as defined in section 44801 of title 49, United States Code) to benefit public safety;
- programs to purchase and operate counter-UAS systems (as defined in section 44801 of title 49, United States Code) included on the list of technologies established by subsection (d)(2)(A)(iii) section 210G of the Homeland Security Act of 2002 (6 U.S.C. 124n(d)(2)(A)(iii)) to exercise the authority granted under subsection (a)(2) of such section.

As a formula grant program, only the designated state administering agencies (SAAs) for the 56 states, U.S. Territories, and District of Columbia are eligible to receive funding under the State JAG program, and only specified units of local government and tribes are eligible to receive funding under the Local JAG program. Eligibility for units of local government and tribes may change year to year due to the annual formula.

The JAG Program Fact Sheet provides background information and other details about the JAG Program.

2. What is the authorizing legislation for the JAG program?

The JAG Program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (codified at 34 U.S.C. 10151–10158); Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101–10755); see also 28 U.S.C. 530C(a).

3. What is the Assistance Listing number for the JAG program?

The Assistance Listing number for the JAG program (state and local) is 16.738.

AWARD ELIGIBILITY/FORMULA INFORMATION

4. What entities are eligible, and where is the eligibility list located?

There are two types of formula awards available under the JAG program.

- **JAG state awards:** Only states may apply under this NOFO, and states must designate a single SAA that has authority to apply on their behalf. By law, for purposes of the JAG program, the term "states" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa.
- **JAG local awards:** Only units of local government appearing on the JAG Allocations List may apply under this NOFO. The full list of eligible units of local governments for the current fiscal year, once available, will be posted on the JAG web page at: https://bja.ojp.gov/program/jag/allocations. By law, for purposes of the JAG program, the term "units of local government" includes a town, township, village, parish, city,

county, borough, or other general-purpose political subdivision of a state, or it may be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

Note: The application must be submitted by an applicant with a Unique Entity Identifier (UEI) associated with an entity that is eligible to apply to receive an award. See the How to Apply section for more information. For additional information and example of ineligible entities, please refer to the FAQ titled "How do eligible entities apply for JAG funds".

5. Why are two eligibility categories included within the Local JAG NOFO?

- The Local JAG NOFO has two categories to reduce the award administration burden for eligible applicants receiving awards of less than $25,000. Units of local government that are listed on the JAG web page as eligible for an **allocation amount of less than $25,000** should apply under **Category 1**. Awards will be made with two-year project periods and will require annual performance reporting.
- Units of local government that are listed on the JAG web page as eligible for an **allocation amount of $25,000 or more** should apply under **Category 2**. Awards will be made with four-year project periods and will require semi-annual performance reporting.

6. How is the formula calculated?

JAG awards are based on a statutory formula. Once each fiscal year's overall JAG program funding level is determined, BJA works with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process, which, in general, consists of:

1. Computing an initial JAG allocation for each state based on its share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine whether the state allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on its share of violent crime and population.
3. Dividing each state's final award amount (except for the territories and District of Columbia) between the state and its units of local governments at a rate of 60 and 40 percent, respectively.
4. Determining the unit of local government award allocations, which are based on their proportion of the state's 3-year violent crime average. If the eligible award amount for a particular unit of local government as determined on this basis is $10,000 or more, then the unit of local government is eligible to apply directly to the Office of Justice Programs (OJP) (under the JAG Local NOFO) for a JAG award. If the eligible award amount to a

particular unit of local government as determined on this basis would be less than $10,000, the funds are not made available for a direct award to that particular unit of local government but instead are added to the amount that otherwise would have been awarded to the state. (The state's obligations with respect to this additional amount for the "less than $10,000 jurisdictions" are summarized below in "Are states required to pass-through funding to local jurisdictions?")

The BJS technical reports that describe the steps used to calculate the JAG formula, in detail, can be found at: JAG Technical Reports | BJS.

7. Why would a local jurisdiction not receive an allocation?

A jurisdiction is eligible to receive a direct JAG award only if the formula allocation is $10,000 or more and the jurisdiction is not part of a disparate group (see "Disparate Information"). Awards allocations to units of local government are based on the share of violent crimes reported by the law enforcement agencies in the state. The sum of these reports within each state are computed to determine the jurisdiction's share of the total local award allocation. If a local jurisdiction's calculated allocation is less than $10,000, the funds are provided to the state. The state must allocate the additional funds included in its award to jurisdictions that were not eligible for a direct BJA JAG award of $10,000 or more and/or to state police departments that provide criminal justice services to the "less than $10,000 jurisdictions" within the state.

8. Is there funding available for jurisdictions that do not qualify for a direct award?

Jurisdictions that do not qualify for a direct award from BJA under the JAG Program may reach out to their respective SAA to determine whether JAG subaward funding is available. SAA contact information can be found at: SAA | Overview | OJP.

9. Are states required to pass-through funding to local jurisdictions?

Yes. There are two types of pass-through requirements for states. A state that applies for and receives a JAG award must:

- Pass through a predetermined percentage of funds to "units of local government." (For purposes of the JAG program, a "unit of local government" includes a city, county, township, town, and certain federally recognized Indian tribes.) This predetermined percentage (often referred to as the variable pass-through, or "VPT") is calculated by OJP's BJS, based on the total criminal justice expenditures by the state and its units of local government. The variable pass-through percentages that will apply to an award to a recipient state can be found at: JAG Program | JAG Variable Pass-Through (VPT) Information | Bureau of Justice Assistance. (If a state believes the VPT percentage has been calculated incorrectly, the state may provide pertinent, verifiable data to BJA and ask OJP to reconsider.)

- Appropriately use or distribute those funds that are *added* to the state's award because certain units of local government within the state are ineligible for a direct award of JAG funds because the unit of local government's calculated allocation is less than $10,000

(these units of local government sometimes are referred to as "less than $10,000 jurisdictions"). The state must provide these additional funds included in its JAG award to state police departments that provide criminal justice services to the "less than $10,000 jurisdictions" within the state and/or subaward the funds to such jurisdictions.

For information on the pass-through waiver process, please refer to the FAQ titled "If a State Administering Agency (SAA) intends to request a pass-through waiver, which requires BJA certification, what is the process?"

10. Is it possible for a recipient to make subawards to private and nonprofit neighborhood or community-based organizations?

Yes, per 34 U.S.C. § 10152(b) a JAG recipient can make a subaward to private and nonprofit neighborhood or community-based organizations if the primary purpose of the subaward meets the requirements of one or more JAG Program areas under 34 U.S.C. § 10152 (a)(1). Such projects could take the form of (1) a project that would benefit the entire state, (2) a project that will benefit a local jurisdiction, or (3) a partnership between a private nonprofit organization and a local law enforcement agency to provide allowable services to designated "units of local government." Please note that JAG funds cannot be used to support any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

Note: An SAA may not use required pass-through funds to make subawards to private and nonprofit neighborhood or community-based organizations without express prior approval from BJA for a waiver to the pass-through requirement. See "Award Administration."

11. How does the National Incident-Based Reporting System (NIBRS) reporting impact eligibility for funding under the JAG program?

Only agencies reporting crime data to the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program, whether they are reporting via the Summary Reporting System (SRS) or the NIBRS, are potentially eligible for JAG funding.

By statute, BJA JAG awards are calculated using violent crime data from the FBI's UCR Program, which consists of SRS and NIBRS. Beginning in 2021, NIBRS became the national standard for law enforcement reported crime data. However, not all law enforcement agencies were able to make the transition by the January 2021 deadline, leading to a gap in crime data coverage. In 2022, the FBI began accepting SRS crime data again to provide a more complete picture of crime while agencies continue to transition to NIBRS. In accordance with the statute, BJS calculates the JAG awards using the data reported to the UCR program, which includes both SRS data and NIBRS data. For agencies submitting NIBRS data, all of the offenses submitted in an incident are used to calculate the violent crime count for that jurisdiction. For agencies submitting SRS data, only the most serious offense in an incident, as determined by the hierarchy rule, is used to calculate the violent

crime count for that jurisdiction.[1]

By statute, the JAG formula allocations are based on part 1 violent crimes, which include murder and nonnegligent manslaughter, rape, robbery, aggravated assault, and, as defined in the statute, human trafficking. At the state level, funding allocations are determined by "the average annual number of part 1 violent crimes of the UCR of the FBI reported by such State for the three most recent years reported by such State to the average annual number of such crimes reported by all States for such years" (34 U.S.C. 10156(a)(1)(B)) and the state's population, as reported by the U.S. Census Bureau. At the local level, funding eligibility and allocations are determined by "the average annual number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available bears to the number of part 1 violent crimes reported by all units of local government in the State in which the unit is located to the Federal Bureau of Investigation for such years" (34 U.S.C. 10156(d)(2)(A)).

For more information on NIBRS, please see: National Incident-Based Reporting System (NIBRS) | Bureau of Justice Statistics. For more information on how BJS calculates JAG allocations, please see the JAG technical reports.

12. Is a NIBRS 3 percent set-aside required for JAG recipients not certified as NIBRS compliant?

For FY 2022 and subsequent awards, BJA will not require recipients to dedicate 3 percent of their award toward NIBRS compliance. Direct FY 2018[2]–FY 2021 JAG award recipients that were not NIBRS compliant were required to set aside 3% of funds which could only be used toward NIBRS compliance.

13. For FY 2018–2021 Direct JAG awards, does the NIBRS 3% set aside requirement apply to subawards and how should recipients communicate NIBRS compliance to BJA?

The requirement for a NIBRS set-aside is not applicable to subawards from states.

For Local JAG grantees, the requirement for a NIBRS set-aside is applicable to all jurisdictions in a disparate group but is not otherwise be applied to subawards. Recipients serving as fiscal agent for "disparate jurisdictions" (as defined at 34 U.S.C. 10156(d)(4)) must pass this requirement through to subawards in other localities in the disparate jurisdiction so that each locality in a disparate jurisdiction group dedicates at least 3 percent of award funds to NIBRS compliance unless, with respect to each locality in the disparate jurisdiction group, evidence of NIBRS compliance has been submitted to and approved by BJA.

Grant recipients that achieve full compliance with NIBRS during the grant period of performance should email evidence of NIBRS compliance (written documentation from the FBI and/or their state-certified NIBRS compliance) to their grant manager listed in OJP's JustGrants System. Upon review of the documentation submitted, BJA will confirm the

[1] See the glossary on the FBI's Crime Data Explorer for the definition of the hierarchy rule.
[2] U.S. territories and tribal jurisdictions were not subject to the 3 percent NIBRS set-aside in FY 2018.

NIBRS compliance and then clear any withholding award condition associated with the NIBRS set-aside requirement. Grant recipients must retain documentation on file that demonstrates the FBI certification of NIBRS compliance. Such documentation must be made available for BJA review upon request.

Once a state or unit of local government is certified as NIBRS compliant, the grantee may submit a programmatic cost change Grant Award Modification (GAM) to BJA and reallocate any remaining set-aside funds to another eligible JAG activity.

POTENTIAL FUNDING REDUCTIONS

14. Are JAG awards subject to any potential funding reductions?

A state allocation of a JAG award is subject to three potential funding reductions for noncompliance under the Sex Offender Registration and Notification Act (SORNA), the Prison Rape Elimination Act (PREA), and the Death in Custody Reporting Act (DCRA).

15. What is the potential funding reduction under the SORNA?

SORNA, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006, mandates a 10 percent reduction in JAG award to a state that has failed to substantially implement SORNA. For such states, the 10 percent reduction has been applied to JAG awards since FY 2012 and will continue to be applied in each subsequent year until the JAG recipient has substantially implemented SORNA. Further, states that have substantially implemented SORNA have an ongoing obligation to maintain that status each year. A JAG reduction will be applied each year that a jurisdiction fails to substantially implement SORNA.

A reduction of a JAG award to a state under the provisions of SORNA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

For Frequently Asked Questions on SORNA, please refer to: https://smart.ojp.gov/faqs.

16. How is the SORNA funding reduction calculated?

The example below illustrates how the SORNA funding reduction is assessed against a state that did not implement SORNA.

If BJA initially calculated that the state is eligible to receive a JAG allocation of $3,000,000, the 10 percent JAG reduction would be calculated as follows:

1. The mandatory pass-through amount of $1,200,000 (based on the state's mandatory 40 percent pass-through) is subtracted from the $3,000,000, resulting in $1,800,000.
2. The "less than $10,000" allocation for the state ($250,000) is then added to the $1,800,000, resulting in $2,050,000.
3. The 10 percent JAG reduction is then assessed on the $2,050,000 amount ($2,050,000 × 0.10), resulting in a SORNA penalty of $205,000 for the state.

Note: For the District of Columbia and the territories, the JAG reduction will be assessed on

the full allocation because the entire allocation goes to the district or territorial government.

17. Is a state eligible for additional JAG funding based on its SORNA compliance status?

SORNA-compliant states and territories may have bonus funds applied to their next fiscal year JAG award. This bonus allocation is calculated based on total funds resulting from the JAG reductions from non-implementing states and territories during that current fiscal year. For example, if a state substantially implemented SORNA in FY 2026, then that state would have additional bonus funds added to its FY 2027 State JAG award, which will be comprised of JAG reductions from non-implementing states and territories in FY 2026. The amounts available for bonus funds will vary from year to year, depending on the amount of JAG reductions that are assessed.

18. Whom can I contact for more information on the JAG reduction or SORNA penalty, SORNA compliance, or the implementation of SORNA?

For additional information regarding SORNA implementation, including requirements and a list of states that will be affected by the 10 percent reduction to JAG awards, contact the OJP Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) at ASKSMART@usdoj.gov or 202-514-4689.

19. What is required under the Prison Rape Elimination Act (PREA) certification requirement, and what is the funding reduction for failure to comply?

In 2012, DOJ published the National Standards to Prevent, Detect, and Respond to Prison Rape (PREA Standards), which were promulgated to prevent, detect, and respond to sexual victimization and abuse in confinement settings. The National PREA Standards are set out at 28 C.F.R. Part 115 and apply to confinement facilities, including adult prisons and jails, juvenile facilities, and police lockups.

The PREA statute provides that a state whose Governor does not certify full compliance with DOJ's PREA Standards (34 U.S.C. 30307(e)) is subject to the loss of 5 percent of any DOJ grant funds that it would otherwise receive for prison purposes, including JAG award funding.

Prior to December 16, 2024, a state whose governor could not certify full compliance with the PREA Standards had the option to submit an assurance that no less than 5 percent of impacted grant funds would be used by the state solely to adopt and achieve full compliance with the PREA Standards in future years. The Justice for All Reauthorization Act (JFARA) of 2016, which was enacted on December 16, 2016, included an amendment to the PREA statute that eliminated the assurance option.[3]

A reduction in a JAG award to a state due to the PREA provision will **not** affect the portion of

[3] JFARA eliminated the assurance option on December 16, 2022. JFARA provided that, for 2 years following the assurance sunset, a governor who could certify that the state has had audits for at least 90 percent of facilities covered by the certification/assurance may request that the Attorney General allow submission of an emergency assurance. The emergency assurance ended on December 16, 2024.

the JAG award that is reserved for local jurisdictions.

For additional information concerning PREA implementation, send inquiries to the PREA Management Office at: PREACompliance@usdoj.gov and/or review the PREA FAQs.

20. Is a state eligible for additional JAG funding based on its PREA compliance status?

Some states are eligible for additional JAG funding based on PREA compliance status. As explained in question 19 above, states and territories that do not submit a certification or an assurance are subject to a 5 percent reduction in certain DOJ grant funds (including JAG) that they would otherwise receive. The states and territories that have submitted such a certification (or, through fiscal year 2025 an assurance) are eligible to receive a bonus amount on their annual JAG award. The JAG bonus amounts are made up of JAG funds withheld from the states and territories that did not submit a certification (or, through fiscal year 2025, an assurance) and are calculated based on a modified JAG formula.

21. What is required under the Death in Custody Reporting Act (DCRA)?

The DCRA; (Public Law 113-242) requires states to report to the Attorney General information regarding the death of any person who is either detained, under arrest, in the process of being arrested, en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, state-run boot camp prison, boot camp prison that is contracted out by the state, or any state or local contract facility, or other local or state correctional facility (including any juvenile facility). SAAs are required to report DCRA data to the BJA on a quarterly basis.

A state that fails to comply may, at the discretion of the Attorney General, be subject to not more than a 10 percent reduction of the funds that would otherwise be allocated for that fiscal year to the state under the JAG program.

APPLICATION REQUIREMENTS

22. How do eligible entities apply for JAG funds?

DOJ funding opportunities follow a two-part application process. Detailed information on how to apply can be found in the annual NOFO document, and in the OJP Grant Application Resource Guide.

Applicants **MUST** have a valid Unique Entity Identifier (UEI) and an active System of Award Management (SAM) registration to begin the application process in Grants.gov. For additional information, see: https://sam.gov/content/entity-registration and Resources for Using the System for Award Management.

The JAG program statute requires that local applicants be a **unit of local government**, which, as described in the eligibility section, includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state, or it may be a federally recognized Indian tribal government that performs law enforcement functions (as

determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

The legal name of the applicant **must** be associated with a UEI in SAM that is eligible to apply to receive an award.

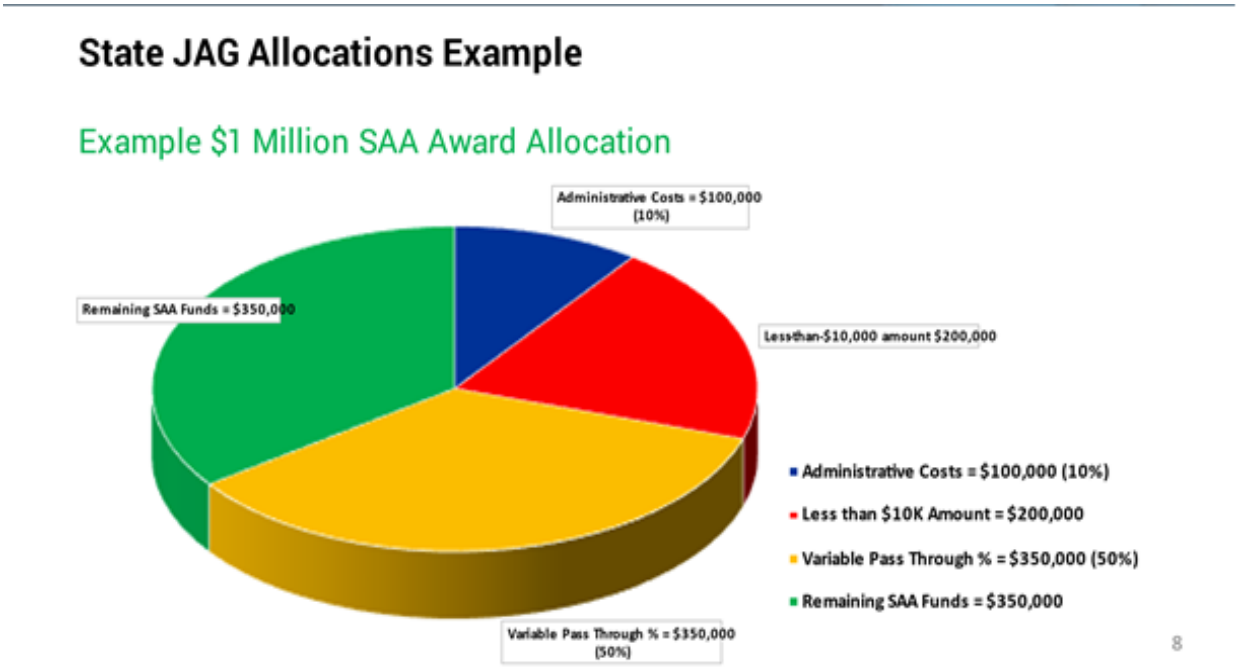
Applicants may be requested to submit additional supporting documentation if BJA cannot determine eligibility based on legal name registered under its UEI in SAM.

23. What should a State JAG applicant include in the budget application attachment?

State JAG budget attachments should total the award amount listed on the current JAG allocations list. Additionally, the budget should include the following clearly labeled in the appropriate budget categories (e.g., subawards, etc.):

1) Less than $10,000 pass-through amount (intended for ineligible jurisdictions and/or the state police).
2) Variable Pass-Through (VPT) amount; and
3) Administrative Costs Amount (maximum 10% of the award).

The example chart below is included for illustration purposes only.



***24.* Who should be listed as the authorized representative on a JAG application?**

The person who accepts or declines awards on behalf of an entity must have legal authority to enter into contracts, grants, and cooperative agreements with the federal government on behalf of the entity. Accepting an award binds your entity to the award

conditions, and it is the responsibility of your entity to ensure the Authorized Representative has the authority to do so.

The authorized representative may not necessarily be the same person authorized to sign the Chief Executive Certification.

25. What are the governing body requirements related to a JAG application?

Pursuant to the JAG statute (at 34 U.S.C. § 10153(a)(2)), a JAG application must be made available for review by the governing body of the applicant jurisdiction, or to an organization designated by that governing body, at least 30 days prior to that application being submitted to the awarding agency for funding.

To satisfy this requirement, BJA requires the submission of a properly completed "Certifications and Assurances by the Chief Executive (CE) of the Applicant Government" to attest to these facts. If the governing body review requirement has not been completed at the time of application, a locality can still apply for JAG funding; however, it will not be able to submit a properly completed form with its application. In this event, the award will be made with a withholding award condition for the "Certifications and Assurances by the Chief Executive of the Applicant Government" form, which a grantee must submit to BJA post-award when all of the requirements attested to in this form are met. Forms from prior JAG NOFOs can be accessed at Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Archives | Bureau of Justice Assistance.

26. What are the public comment requirements related to a JAG application?

Pursuant to the JAG statute (at 34 U.S.C. § 10153(a)(3)), a JAG application, prior to being submitted to the awarding agency, must be made available for public comment by citizens and neighborhood- and community-based organizations to the extent applicable law or established procedures make such opportunity available.

To satisfy this requirement, BJA requires the submission of a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" to attest to these facts. If the public comment requirement has not been completed at the time of application, a locality can still apply for JAG funding; however, it will not be able to submit a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" form with its application. In this event, the award will be made with a withholding award condition for the "Certifications and Assurances by the Chief Executive of the Applicant Government" form, which a grantee must submit to BJA post-award when all the requirements attested to in this form are met. Forms from prior JAG NOFOs can be accessed at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Archives | Bureau of Justice Assistance.

27. Who may sign the "Certifications and Assurances by the Chief Executive of the Applicant Government" as the chief executive for state or unit of local government applicants?

The "Certifications and Assurances by the Chief Executive of the Applicant Government" form must be signed by the jurisdiction's chief executive. The chief executive is the person who has the ultimate executive authority for the jurisdiction. Further, as set forth in the certification itself, the chief executive is the person that has the authority to make representations on behalf of the unit of local government. Typically, the chief executive is the highest elected official of the jurisdiction (e.g., governor, mayor, or county board chair). In many municipalities, the city manager or city administrator is the highest-ranking executive position of the local government and authorized to sign the CE.

This chief executive may not delegate signature authority to another person under any circumstances.

28. What does the Statewide Strategic Plan requirement under State JAG entail?

States ***must*** submit a comprehensive statewide strategic plan with their applications. Additionally, in any year in which the statewide strategic plan is not fully updated, states must submit a brief annual report with their applications.

The statewide strategic plan, which must be updated at least every five years, should:

- Be designed in consultation with local governments and representatives of all segments of the criminal justice system—including judges, prosecutors, law enforcement personnel, and corrections personnel—and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services.
- Include details on how grants will be used to improve the administration of the criminal justice system.
- Include a description of how the state will allocate funding within and among each of the JAG Program areas.
- Describe the process used by the state for gathering data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions.
- Describe the barriers at the state and local levels for accessing data and implementing evidence-based approaches to preventing and reducing crime and recidivism.

The annual report (required in the years between full statewide strategic plan updates), intended to provide a summary update of program implementation efforts as detailed in the statewide strategic plan, should:

- Discuss changing circumstances in the state, if any, since the strategic plan was adopted.
- Describe how the state plans to adjust funding within and among each of the JAG program areas.
- Provide an ongoing assessment of need.
- Discuss the accomplishment of the goals identified in the strategic plan.

- Reflect how the plan influenced funding decisions in the previous year.

If no plan is attached, an annual report is missing, or a submitted strategic plan or annual report clearly fails to discuss the required elements described above, funds may be withheld until a minimally sufficient strategic plan or annual report is submitted.

To help ensure that states consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each state to involve all criminal justice system stakeholders in the strategic planning process. The strategic planning process should reflect input from all segments of the criminal justice system—including local governments, judges, prosecutors, law enforcement, and corrections personnel—and providers of indigent defense services, victim services, juvenile justice and delinquency prevention programs, parole and probation services, and reentry services. States needing assistance to complete a strategic plan or annual report should contact BJA to request training and technical assistance (TTA).

29. What does the DCRA State Implementation Plan under State JAG entail?

States must submit a DCRA State Implementation Plan, or an annual implementation report, with their applications. The required elements in the DCRA State Implementation Plan can be found at: DCRA State Plan Implementation Guidance. In any year in which the DCRA State Implementation Plan is not updated, states must submit a brief DCRA implementation report with their applications.

For years when the DCRA State Implementation Plan is updated, attach the new plan to the JAG application. For years when the State Implementation Plan is not updated, attach the implementation report to the JAG application.

If a State Implementation Plan or implementation report is missing, or a submitted State Implementation Plan clearly fails to discuss the required elements described in the DCRA State Plan Implementation Guidance, funds may be withheld until a minimally sufficient plan or report is submitted.

DISPARATE INFORMATION

30. What does it mean when two or more units of local government are listed under the column "Joint Application (Disparate) Award Amount" in the JAG allocation tables?

In some cases, as defined by the legislation, a disparity may exist between the funding eligibility of a county and its associated municipalities. Three different types of disparities may exist:

- The first type is a zero-county disparity. This situation exists when one or more municipalities within a county are eligible for a direct award, but the county is not, yet the county is responsible for providing criminal justice services (such as prosecution and incarceration) for the municipality. In this case, the county is entitled to part of the municipality's award because it shares the cost of criminal justice operations, although it

may not report crime data to the FBI. This is the most common type of disparity.

- A second type of disparity exists when both a county and a municipality within that county qualify for a direct award, but the award amount for the municipality exceeds 150 percent of the county's award amount.
- The third type of disparity occurs when a county and multiple municipalities within that county are all eligible for direct awards, but the sum of the awards for the individual municipalities exceeds 400 percent of the county's award amount.

31. How is it determined which unit of local government will be the fiscal agent responsible for applying for the disparate funds?

The localities in a disparate group must agree on which locality will serve as the fiscal agent. All the localities in the disparate group must sign a Memorandum of Understanding (MOU) that 1) identifies which jurisdiction will serve as the applicant or fiscal agent for the disparate group; and 2) identifies the agreed upon funding amounts for each locality. The MOU must be completed and signed by an official who has authority to enter into a such an agreement on behalf of each jurisdiction. Generally, BJA would expect this to be the chief executive of the jurisdiction. Additional documentation may be requested by BJA to determine signing authority. The signed MOU should be attached to the application. If the MOU is not complete by time of application, funds will be withheld until the signed MOU is submitted to BJA. For a sample MOU, go to: JAG Sample MOU.

32. How are allocation amounts determined for jurisdictions identified as disparate?

The jurisdictions identified as disparate must negotiate and agree on the funding amounts out of the "joint allocation" total that each jurisdiction will receive under the JAG award. Please note that the amounts listed in the "direct allocation" column of the annual JAG allocations chart on the BJA website are calculated amounts based on the formula and how much each jurisdiction would be eligible for if no disparity was identified. There is no requirement to use the "direct allocation" amounts listed for each disparate jurisdiction on the allocations chart. The joint application and signed MOU submitted by the fiscal agent on behalf of the disparate group must specify the award distribution to each unit of local government and the purposes for which the funds will be used.

33. What Is the process if one or more disparate jurisdictions do not agree to sign an MOU and intend to decline funding?

A disparate unit of local government may decline JAG funding and should be party to the MOU with its allocation listed as $0. However, BJA will accept an official letter of declination in lieu of the disparate unit of local government's signature on the MOU. This official letter of declination must clearly state that the unit of local government understands it is eligible to receive JAG funds under the subject award but is declining to do so; the letter must be signed by the highest-ranking official for the unit of local government. The declination letter signature cannot be delegated.

34. What are the responsibilities of a fiscal agent for a disparate group?

The fiscal agent is considered the pass-through entity and their relationship with the other disparate members would be considered a subaward/subrecipient for grants administrative purposes. The fiscal agent is the legal applicant responsible for submitting the application, reporting, making and monitoring subawards (see the DOJ Grants Financial Guide, Section 3.14), retaining all subaward paperwork and applicable certifications, and making that available upon request in the case of monitoring or an audit.

35. When there is a group of disparate jurisdictions applying for a JAG award, do the "Certifications and Assurances by Chief Executive of Applicant" apply to each disparate jurisdiction or just the fiscal agent?

The "Certifications and Assurances by the Chief Executive of the Applicant Government" must be submitted by the applicant/fiscal agent to OJP. The subrecipients in the disparate group are not required to submit such a certification by their chief executive with the JAG application to BJA; however, the direct JAG award recipient/fiscal agent must collect a completed certification from the subrecipient(s). Any such certifications must be maintained by the direct JAG award recipient and made available to OJP upon request. Each unit of local government must abide by state and local policies and procedures regarding governing body review and public comment opportunity.

36. Does the disclosure of duplication in cost items (formerly the disclosure of pending applications) application requirement apply to each disparate jurisdiction or just the unit of local government that is the fiscal agent?

Only the fiscal agent (JAG applicant) is required to submit the Applicant Disclosure of Duplication in Cost Items, which is completed in the JustGrants application (see the OJP Grant Application Resource Guide | Office of Justice Programs). However, the disclosure should cover all projects and activities proposed to be funded under the award.

USE OF FUNDS

37. What can JAG funds be used for?

In general, JAG funds may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, or civil proceedings, including for any one or more of the following eleven JAG Program areas, per the JAG statute:

(A) Law enforcement programs
(B) Prosecution and court programs
(C) Prevention and education programs
(D) Corrections and community corrections programs
(E) Drug treatment and enforcement programs
(F) Planning, evaluation, and technology improvement programs
(G) Crime victim and witness programs (other than compensation)

(H) Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams
(I) Implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to:
(i) Mental health courts
(ii) Drug courts
(iii) Veterans courts; and
(iv) Extreme risk protection order programs
(J) Programs to purchase and operate unmanned aircraft systems (as defined in section 44801 of title 49, United States Code) to benefit public safety
(K) Programs to purchase and operate counter-UAS systems (as defined in section 44801 of title 49, United States Code) included on the list of technologies established by subsection (d)(2)(A)(iii) section 210G of the Homeland Security Act of 2002 (6 U.S.C. 124n(d)(2)(A)(iii)) to exercise the authority granted under subsection (a)(2) of such section

In connection with all of the above purposes, it should be noted that the statute defines "criminal justice" as "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 having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies, and pretrial service or release agencies); activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders; and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency."

Additionally, JAG funds may be used for any purpose indicated in Purposes for Which Funds Awarded under the Edward Byrne Memorial Justice Assistance Grants (JAG) Program May Be Used.

In the Appendix, there are additional examples of expenditures and projects that, if reasonably related to a JAG statutory programmatic area and meet general cost allowability guidelines, would be an allowable use of funds. Given the broad program areas above, it is not possible to provide an exhaustive list of allowable uses. JAG grantees should reach out to their BJA grant manager for assistance if they have questions about allowable uses not addressed in these FAQs.

38. Are there any limitations on the use of JAG funds, including expenditures that are specifically prohibited?

The JAG statute, at 34 U.S.C. § 10152(d), prohibits the use of JAG funds for certain items, and prohibits the use of JAG funds for other items unless BJA grants a waiver. The JAG Prohibited Expenditures Guidance provides lists, details, definitions, and procedures for prohibited expenditures under the BJA JAG Program, consistent with 34 U.S.C. § 10152.

As detailed in the JAG Prohibited Expenditure Guidance, the following ***is strictly prohibited*** with no option for a waiver**:**

- Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

The following items ***are prohibited unless*** the Department of Justice (DOJ) certifies (i.e., issues a waiver) that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order:

- vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);
- luxury items;
- real estate;
- construction projects (other than penal or correctional institutions)
- any similar matters

JAG grantees should refer to the full guidance linked above for additional information and with instructions on how to request a waiver from BJA. **Note:** Leased vehicles (excluding police cruisers) also require a waiver.

As noted in that guidance, **unmanned aerial systems (UAS) and unmanned aerial vehicles (UAV)** are not included on the Prohibited List, but have additional legal restrictions. **UAS/UAV may be acquired with JAG funds only if the recipient (or subrecipient, as applicable) requests and is granted prior express approval from BJA, consistent with requirements specific to UAS/UAV purchases. Additional information may be found here: https://bja.ojp.gov/funding/uas.**

The following are certain unallowable costs and certain activities that are out of the program scope and will not be funded.

1. Out of program scope is any program or activity, at any tier that, directly or indirectly, violates (or promotes or facilitates the violation of) federal immigration law (including 8 U.S.C. § 1373) or impedes or hinders the enforcement of federal immigration law—including by failing to comply with 8 U.S.C. § 1373, give access to DHS agents, or honor DHS requests and provide requested notice to DHS agents.

2. Out of program scope is any program or activity, at any tier that violates any applicable Federal civil rights or nondiscrimination law. This includes violations that – (1) indirectly violate the law, including by promoting or facilitating violations; or (2) unlawfully favor individuals in any race or protected group, including on a majority or minority, or privileged or unprivileged, basis, within a given area, population, or sector.

3. As specified in the DOJ Grants Financial Guide, in Chapter 3.13 "Unallowable Costs" ("Legal Services for Aliens"), any obligations of funds, at any tier, under this award to provide (or to support the provision of) legal services to any removable alien or any alien otherwise unlawfully present in the United States shall be unallowable costs for purposes any award made under this notice, but the foregoing shall not be understood to apply— (1) to legal services to obtain protection orders for victims of crime; or (2) to immigration-related legal services that may be expressly authorized or required by any law, or any judicial ruling, governing or applicable to the award.

No JAG award funds may be used for any expenses related to public awareness campaigns for an extreme risk protection program.

JAG grantees should refer to the DOJ Grants Financial Guide, Section 3.13 Unallowable Costs for additional information.

39. What is the difference between the JAG areas of emphasis and JAG program areas?

The JAG Program areas are statutory and do not vary year to year absent changes to the JAG legislation. Any JAG-funded projects must have a nexus to one or more of the statutory JAG Program areas. Historically, BJA has included "areas of emphasis" in the JAG NOFO; these, if included in the NOFO, may be updated annually to represent current BJA, Administration, Departmental, and/or other priorities. BJA encourages grantees to fund JAG projects that fall within one of more of these areas of emphasis; however, unlike the nine JAG Program areas, recipients are not required to utilize funds for projects that fall within the areas of emphasis.

40. Are there any restrictions on the use of JAG funds for unmanned aircraft systems (UAS)?

No funds may be used for UAS (also referred to as unmanned aerial vehicles or drones, including their accessories) except with express prior approval from BJA. To request such approval, the recipient (or subrecipient, at any tier) must submit to BJA a written certification that, among other things, certifies that only UAS verified by the Defense Contract Monitoring Agency's "Blue UAS Cleared List" or any successor list (available at https://bluelist.dcma.mil/) as not manufactured by a "covered foreign entity" may be purchased or operated under the federal award and, further, that no modifications or additional accessories may be introduced to the UAS funded by the award. The purchased UAS may not be used to process, store, or transmit Federal information. The recipient (or subrecipient) also must assure BJA that it has sufficient policies and procedures regarding privacy, civil liberties, and information technology cybersecurity related to the operation of the UAS. Finally, the recipient (or subrecipient) may be required to provide additional documentation to verify purchase and the related policies for the UAS. Funds proposed for the purchase of UAS may be withheld, pending confirmation of compliance with the terms of this award. Additional information and the required certification form may be found here: https://bja.ojp.gov/funding/uas.

41. Are there any restrictions on the use of JAG funds for Counter-UAS?

No funds may be used for C-UAS except with express prior approval from BJA. To request such approval, the recipient (or subrecipient, at any tier) must submit to BJA a written certification that, among other things, certifies that any C-UAS purchased with award funds will only be procured and used in compliance with all applicable federal, state, and local laws and regulations, including criminal, surveillance, aviation, and communications laws. Any C-UAS purchased with award funds will be included on the list of technologies established by subsection (d)(2)(A)(iii) section 210G of the Homeland Security Act of 2002 (6 U.S.C. 124n(d)(2)(A)(iii) to exercise the authority granted under subsection (a)(2) of such section. The certification also requires that the award recipient consult qualified legal counsel to review the proposed purchase and operation of C-UAS, and that the recipient will complete required training and obtain all required approvals, certifications, licenses, and authorizations prior to deployment, and will coordinate with relevant authorities as required. The recipient (or subrecipient) also must assure BJA that it has sufficient policies and procedures regarding privacy, civil liberties, and information technology cybersecurity related to the operation of the C-UAS. Finally, the recipient (or subrecipient) may be required to provide additional documentation to verify purchase and the related policies for the C-UAS. Funds proposed for the purchase of C-UAS may be withheld, pending confirmation of compliance with the terms of this award. Additional information and the required certification form may be found here: https://bja.ojp.gov/funding/uas.

42. Are there any restrictions on the use of JAG funds for DNA testing?

If JAG program funds will be used for DNA testing of evidentiary materials, the resulting DNA profiles must be eligible for upload to the Combined DNA Index System (CODIS) by a government DNA lab with access to CODIS. CODIS is the national DNA database operated by the FBI**.** No profiles generated with JAG funding may be entered into any nongovernmental DNA database without prior express written approval from BJA. DNA testing for the purposes of forensic genetic genealogy (FGG) is an approved exception to these two requirements, however additional restrictions apply regarding the use of JAG funds for FGG.

Fund may be used for projects involving the use of FGG, however, entities ***must adhere*** to the United States Department of Justice Interim Policy: Forensic Genetic Genealogical DNA Analysis and Searching, which, among other things, **requires the upload of DNA profiles to CODIS and consultation with the prosecutor *prior to* attempting FGG.**

Funds may not be used for the purchase of DNA equipment and supplies (including FGG and Rapid DNA) when the resulting DNA profiles from such technology are not acceptable for entry into CODIS.

Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

43. Are there any specific requirements on the use of JAG funds for Rapid DNA projects?

Rapid DNA testing is allowable as long as the resulting DNA profiles are eligible for upload to CODIS by a government DNA lab with access to CODIS. JAG funds may also be used to support Rapid DNA projects involving the purchase of Rapid DNA instruments that have been approved for use by the FBI for use in the booking environment (see the National Rapid DNA Booking Operational Procedures Manual).

Below is an abbreviated list of prerequisites for federal, state, and local booking agencies to participate in Rapid DNA:

- The state must have implemented an arrestee DNA collection law that authorizes DNA sample collection from a person arrested for a specified offense at the time of arrest and for which there are no additional requirements (i.e., determination of probable cause) for the analysis of that arrestee DNA sample. Federal booking agencies already meet this prerequisite.
- Electronic Fingerprint (Live Scan) integration during the booking process for obtaining State Identification Numbers (SID), or Universal Control Number for federal booking agencies, from the State Identification Bureau (FBI for federal) in near real time.
- The booking agency must have network connectivity with the State Identification Bureau/CJIS Systems Agency.
- The booking agency and/or state must technically integrate Rapid DNA within their automated fingerprint process in a way that must ensure only qualifying arrestees are processed.

It will be critical for booking agencies to work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual). BJA encourages those states with arrestee DNA collection laws that meet the prerequisites above to consider using JAG funds to implement Rapid DNA technology (or the defined prerequisites above, such as live scan integration) in booking stations within their states.

44. Are there any specific requirements on the use of JAG funds for FGG Testing?

Yes, JAG award recipients using funds for forensic genealogy testing must adhere to the United States Department of Justice Interim Policy: Forensic Genetic Genealogical DNA Analysis and Searching which, among other things, **requires the upload of DNA profiles to CODIS and consultation with the prosecutor *prior to* attempting FGG.**

Finally, in accordance with Section IX of the interim DOJ policy, grantees utilizing funds for this purpose must collect and report the following metrics to BJA:

a. The type of crime investigated.
b. Whether FGG DNA analysis/forensic genetic genealogical DNA analysis and searching (FGGS) was conducted on a forensic sample or a reference sample.
c. The type of forensic sample subjected to FGG and a description of the total amount,

condition, and concentration of that sample (e.g., single source, mixed profile, degradation status, etc.).

d. Whether FGG analysis resulted in a searchable profile.
e. The identity of the vendor laboratory used to conduct FGG and the genetic genealogy service(s) used to search the FGG profile.
f. Whether the investigation resulted in an arrest that was based, in part, on the use of FGGS.
g. The total amount of federal funding used to conduct FGG/FGGS in each case.

45. What are the requirements for the use of JAG funds for Facial Recognition Technology (FRT)?

For JAG funds to be used for FRT, the recipient must have policies and procedures in place to ensure that the FRT will be used in an appropriate and responsible manner that promotes public safety; protects privacy, civil rights, and civil liberties; and complies with all applicable provisions of the U.S. Constitution, including the fourth amendment's protection against unreasonable searches and seizures, the first amendment's freedom of association and speech, and other laws and regulations. Recipients utilizing funds for FRT must make such policies and procedures available to DOJ upon request.

46. What are the requirements for the use of JAG funds for confidential funds?

JAG funds may be used as confidential funds for the purchase of services (buy money), evidence (narcotics, firearms, stolen property, etc.), and specific information (informant money) for undercover purposes in accordance with 34 U.S.C 10152(d). Prior to the expenditure of any confidential funds, the recipient and any subrecipients must agree to sign a certification indicating that they have read, understood, and agree to abide by all of the conditions pertaining to confidential fund expenditures as set forth in the DOJ Grants Financial Guide.

47. What are the requirements for body armor vests purchased with JAG funds?

Body armor vests purchased with JAG funds must have been tested through the National Institute of Justice (NIJ) Compliance Testing Program, and found to comply with the most current NIJ body armor standards, appear on the NIJ Compliant Products List as of the date the body armor was ordered, and must be uniquely fitted. A JAG award recipient that proposes to purchase body armor with JAG funding must provide to OJP a certification(s) that it has a written "mandatory wear" policy in effect (see 34 U.S.C. § 10202(c)). The certification form related to mandatory wear can be found at: JAG Body Armor Mandatory Wear Policy Certification. Further, before making any subawards (including subawards to disparate jurisdictions) for body armor purchases, the direct JAG award recipient must collect a completed body armor certification from the proposed subrecipient. Any such certifications must be maintained by the direct JAG award recipient and made available to OJP upon request. In addition, recipients using JAG funds for body armor vests must have a written mandatory wear policy. This policy must be in place for at least all uniformed officers before any current year awards can be used by the jurisdiction for body armor vests, and the jurisdiction must provide a signed Body Armor Mandatory Wear Policy Certification to BJA.

This certification can be signed by the grantee's authorized representative or a person officially delegated or authorized to sign on their behalf.

There are no requirements regarding the nature of the mandatory policy other than it specify when mandatory wear is required for uniformed officers on duty. Additional guidance regarding the mandatory wear requirement can be found in the BVP FAQs and the BVP Mandatory Wear FAQs.

Law enforcement agency administrators and jurisdiction CEOs can obtain a copy of the Body Armor Model Policy and Issues Paper (developed by the International Association of Chiefs of Police) by contacting the BVP Help Desk at 1–877–758–3787 or by email at vests@usdoj.gov.

If the recipient proposes to change project activities to use JAG funds to purchase body armor after the award is accepted, the recipient must submit the signed certification to BJA at that time.

Note: A Body Armor Mandatory Wear Policy Certification is also required for the purchase of vest carriers and body armor plates. It is ***not*** required for the purchase of ballistic shields or helmets.

48. Can JAG funds be used to satisfy the 50 percent match requirement under the Patrick Leahy Bulletproof Vest Partnership (BVP) Program and can the receipt of JAG funds impact a jurisdiction's eligibility under the BVP Program?

JAG funds may not be used as any part of the 50 percent match required by the BVP Program. Absent specific federal statutory authority to do so, JAG award funds may not be used as "match" for the purposes of other federal awards.

Pursuant to the BVP Program statute, receipt of JAG funding by a unit of local government may impact its eligibility for funding under the Patrick Leahy BVP Program in the same fiscal year, unless it is a qualifying unit of local government with fewer than 100,000 residents.

For more information on the BVP Program, including eligibility and application, refer to the BVP webpage and the BVP FAQs.

49. What are the requirements for the purchase of body-worn cameras (BWC), data storage, and other related costs allowable expenses under the JAG program?

A direct JAG award recipient that proposes to purchase BWC equipment or implement or enhance BWC programs with JAG funding must provide to BJA a certification signed by the appropriate official certifying that it has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures can be found at: JAG – Body-Worn Camera (BWC) Policy Certification. Further, before making any subawards (including subawards to disparate jurisdictions) for BWC-related expenses, the direct JAG award recipient must collect a completed BWC certification from the proposed subrecipient. Any such certifications must be maintained by the direct JAG award recipient and made

available to OJP upon request. **The BJA BWC Toolkit provides model BWC policies and best practices to assist criminal justice departments in implementing BWC programs.**

Note that apart from the JAG Program, BJA provides funds under the competitive Body-Worn Camera Policy and Implementation Program (BWCPIP). Interested units of local government may wish to refer to the Body-Worn Cameras (BWCs) | Overview | Bureau of Justice Assistance for more information. JAG funds may not be used as any part of the 50 percent match required by the BWCPIP Program.

For additional cost sharing and match information, see the DOJ Grants Financial Guide.

50. What are the requirements to use JAG funds for grant administrative expenses?

A state or unit of local government may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award, inclusive of direct administrative costs and/or indirect costs. Applicants must clearly denote all direct administrative costs in the JAG budget document. When charged to a particular award, actual administrative costs incurred must be tracked separately and reported in the Federal Financial Reports (SF-425) for that award.

51. What are the requirements for using JAG funds for Extreme Risk Protection Order (ERPO) programs?

For each year a JAG recipient plans to use funding to support ERPO programs, it must submit to BJA a principal legal officer signed Certification Relating to Pub. L. No. 90-351, Title I, Sec. 501(a)(1)(I)(iv) (ERPO programs), certifying that the extreme-risk protection-order program to be funded satisfies each of the requirements below prior to the use of grant funds for ERPO programs.

A principal legal officer is an individual at a high level in the government, with the responsibility and authority to provide legal advice to the government. BJA expects that the principal legal officer with the requisite responsibility and authority would have a job title such as Attorney General, Deputy Attorney General, or state agency General Counsel. This guidance should not be viewed as legal advice from BJA as to the identification of the appropriate official; rather, the award recipient government should identify the appropriate official after review of this guidance, the certification of compliance, and the applicant's own governance rules and authorities.

a. Extreme risk protection orders programs must include, at a minimum: Pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the U.S. Constitution, including but not limited to the Bill of Rights and the substantive or procedural due process rights guaranteed under the 5th and 14th amendments to the U.S. Constitution, as applied to the states and as interpreted by state courts and U.S. courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, and, at minimum notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the

right to present evidence, and the right to confront adverse witnesses.

b. The right to be represented by counsel at no expense to the government.
c. Pre-deprivation and post-deprivation heightened evidentiary standards and proof, which means not less than the protections afforded to a similarly situated litigant in federal court or promulgated by the state's evidentiary body and sufficient to ensure the full protections of the U.S. Constitution, including but not limited to the Bill of Rights and the substantive and procedural due process rights guaranteed under the 5th and 14th amendments to the U.S. Constitution, as applied to the states and as interpreted by state courts and U.S. courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases, prevent any violation of any constitutional right, and, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation.
d. Penalties for abuse of the program.

No JAG award funds may be used for any expenses related to public awareness campaigns for an extreme risk protection program.

52. What are the training requirements for law enforcement task forces supported in whole or in part by JAG funds?

When a law enforcement task force is supported in whole or in part by BJA funding, each current member of the task force who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank is required to complete the following online eLearning modules:

- Executive Leadership
- Task Force Commander Leadership and Management
- Safeguarding Privacy, Civil Rights, and Civil Liberties in Task Force Operations
- Criminal Intelligence Systems Operating Policies (28 C.F.R. Part 23)

This training must be completed within 120 days of award acceptance. Additionally, all future task force members are required to complete this training once during the life of this award or once every 4 years if multiple awards include this requirement. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership Online Training Portal.

When BJA funding supports a task force, the grant recipient should compile and maintain a task force personnel roster, along with course completion certificates. This information may be requested by BJA post-award to ensure compliance. Additional information is available regarding this required training and access methods via BJA's website and the Center for Task Force Integrity and Leadership Online Training Portal.

53. What are the restrictions on use of JAG funds for administrative costs, to include indirect costs?

Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the grant award. The 10 percent statutory cap on administrative costs includes direct and indirect costs. For additional information on indirect costs, please see the DOJ Grants Financial Guide.

54. **What are the requirements for construction and/or major renovation projects, projects involving use of chemicals, or other projects with a potential environmental impact?**

Projects involving construction, chemicals, or with other potential environmental impacts may require additional approvals and actions to comply with the National Environmental Policy Act (NEPA). The BJA NEPA web page has additional information. Construction projects may also have to comply with "Buy American" laws and regulations and will have requirements for reporting on continuing use of the real property, in accordance with 2 C.F.R. 200.330.

Note: Only construction and/or major renovation projects for penal or correctional institutions are allowable with JAG funding, absent an approved waiver per JAG Prohibited Expenditures Guidance.

55. What is supplanting and do supplanting prohibitions apply to JAG funding?

Supplanting is to deliberately reduce state or local funds because of the existence of federal funds. For example, when state funds are appropriated for a stated purpose and federal funds are awarded for that same purpose, the state replaces its state funds with federal funds, thereby reducing the total amount available for the stated purpose. ***JAG funds must not be used to supplant state or local funds but instead can be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for criminal justice activities or civil proceedings.*** For additional information, see the DOJ Grants Financial Guide.

Although supplanting is prohibited, the leveraging of federal funding is encouraged.

56. What are the requirements for using JAG funds for DCRA compliance and reporting?

States may use JAG funding for activities designed to support DCRA compliance, to include administrative (e.g., compiling and reporting DCRA data) and programmatic (e.g., systems or process enhancements to facilitate DCRA data validation) costs associated with DCRA. Any DCRA projects supported with JAG funding must align with one or more of the statutory JAG program areas. Funds used exclusively for DCRA purposes (both administrative and programmatic) are not subject to the 10% cap on use of funds for JAG administrative purposes.

States seeking to use JAG funds to support DCRA compliance must provide a description of the planned activities in the program narrative and including separate line-item cost(s) in the budget clearly designated for DCRA uses.

The following are examples of costs and activities relating to DCRA compliance that could be funded under the JAG Program:

- Collecting, reviewing, validating, and/or reporting DCRA data.
- Drafting or updating the state's DCRA Implementation Plan or Implementation Report.
- Conducting outreach to and engaging with state and local agencies to build relationships and gain an understanding of challenges related to DCRA.
- Providing TTA on DCRA to state and local agencies.
- Supporting a statewide data collection initiative that includes DCRA among other data points.

57. What are the requirements for submission of eligible records relevant to the National Instant Background Check System (NICS) if generated under a JAG program?

Consonant with federal statutes that pertain to firearms and background checks—including 18 U.S.C. 922 and 34 U.S.C. ch. 409—if the recipient (or any subrecipient at any tier) uses a JAG award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or state law) relevant to the NICS, or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or state law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or state law) relevant to the NICS are promptly made available to the NICS or to the "state" repository/database that is electronically available to (and accessed by) the NICS, and—when appropriate—promptly must update, correct, modify, or remove such NICS-relevant "eligible records."

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

58. What are the requirements for using JAG funds for interoperable emergency communications activities?

States (including any subrecipients) that are using JAG funds for emergency communications activities should comply with current SAFECOM Guidance.

Additionally, emergency communications projects funded with JAG funds should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time statewide interoperability coordinator (SWIC) in the state of the project. As the central coordination point for a state's interoperability effort, the SWIC plays a critical role and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. CISA

maintains a list of SWICs for each state and territory. Contact ecd@cisa.dhs.gov for more information.

REPORTING REQUIREMENTS

59. What are the standard programmatic and financial reporting requirements once a JAG grant is awarded?

State and local recipients under the JAG Program are required to submit the following reports and data:

- Quarterly Federal Financial Reports through OJP's JustGrants System.
- Quarterly performance measurement reports through the BJA Performance Measurement Tool.
- Semi-annual performance reports through OJP's JustGrants System for all State and Local Category 2 recipients (local award amounts $25,000+). Annual performance reports through OJP's JustGrants System for all JAG Category 1 recipients (awards under $25,000).
- *All JAG recipients should submit the financial and performance reports marked "final" for the reporting period in which all activity and expenditures were completed and then the closeout. Grantees do not need to wait until the grant project period has ended if the project was completed earlier*.

**Please note that the ASAP account will be suspended if a report is delinquent and drawdowns will be prohibited until the report is submitted*.

60. When are the first reports due for JAG?

The first performance measurement (submitted through the BJA Performance Measurement Tool) and financial reports (submitted through OJP's JustGrants System) are due once the award has been accepted in JustGrants. The reporting period for both coincides with the project start date, which is backdated to the beginning of the fiscal year (October 1). The first semi-annual or annual performance report will be a "super report" that covers the entire period from project start date to the normal reporting period after award acceptance. In this example, the first report is due January 30, 2025.

Please note that all performance reports (completed quarterly in the Performance Measurement Tool (PMT) and uploaded semi-annually in JustGrants) and quarterly financial reports must be submitted back to the start date of the award, which is always October 1 of the fiscal year. This is due to obligations being allowable retroactively back to the award start date under JAG. If no activity occurred prior to award acceptance, submitted quarterly financial reports for the periods prior should simply show no activity.

61. What reports are required for a subaward made under a JAG grant?

- Subrecipient performance measurement data must also be submitted in the PMT

quarterly. Grantees can set up access so that subrecipients submit directly in the PMT, but if not, grantees are responsible for submitting the subrecipient PMT data on behalf of the subrecipients.

- Consistent with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, all direct award recipients will be required to report award information on any first-tier subawards totaling $30,000 or more and, in certain circumstances, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. The details of recipient obligations, which derive from the FFATA, are posted on the OJP website at: Award Condition: Reporting Subawards and Executive Compensation (Updated as of September 2016).

62. What is the Death in Custody Reporting Act (DCRA) reporting requirement?

The Death in Custody Reporting Act of 2013 (DCRA; Pub. L. No. 113-242) provides in part that "the State shall report to the Attorney General . . . information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility)."

SAAs are responsible for collecting data on a quarterly basis from local entities including local jails, law enforcement agencies, medical examiners, and other state agencies. SAAs are responsible for compiling and aggregating the data for submission to BJA.

Units of local government are strongly encouraged to cooperate with DCRA data collection efforts within their state.

AWARD ADMINISTRATION

63. How will eligible applicants be notified when an award is made?

The JustGrants system will send an email notification to the Application Submitter, the Authorized Representative, and the Entity Administrator with instructions to login to the system, make necessary assignments, and review and accept the award. For more information on award acceptance, please refer to the Grant Award Acceptance Job Aid Reference Guide.

64. May a jurisdiction obligate or expend its own funds prior to receipt of a JAG award?

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1 of the grant award fiscal year), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum—(1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award

Condition Modification (ACM). If and when the recipient makes a valid acceptance of the award and OJP modifies each applicable withholding condition, the recipient will be able to obligate JAG award funds to reimburse itself for project costs incurred earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs are allowable costs under the award.

65. What is the process for updating contact information related to my grant award?

The Entity Administrator (EA) for the grantee's entity profile in JustGrants is responsible for ensuring that required roles are kept up to date in the system. See the JustGrants Entity Management Training Resources.

66. What is the process for an applicant to decline a JAG award?

A JAG applicant should contact the BJA grant manager if it is contemplating declining a JAG award. To do so, it will need to submit a letter on letterhead to BJA declining the award and the reason for doing so; the letter must be signed by the highest elected official. If the award is for a disparate group, all members of the group must be declining funding for it to be properly declined. Upon submission of the letter to BJA, the award can be declined in JustGrants. Review the Grant Award Acceptance Job Aid Reference Guide for more information.

67. What is the process for a recipient to receive JAG award payments?

JAG award payments are processed through the Department of the Treasury's Automated Standard Application for Payments (ASAP). If a JAG recipient has previously enrolled in ASAP, it will not need to do so again upon receipt of a new JAG award, unless it is applying under a different UEI/SAM registration. For new recipients or recipients receiving funding under a UEI/SAM registration through which it has not previously received DOJ funding, the ASAP registration will need to be completed upon award acceptance in JustGrants.

For more information on how to request funds using ASAP, please reference this user guide. For **questions related to the use of the ASAP system**, please contact the OCFO Customer Service Center by email at Ask.OCFO@usdoj.gov or by phone at 800–458–0786.

The Department of the Treasury organizes ASAP webinar trainings on a regular basis. Please refer to the ASAP website for more information on ASAP-related training and resources.

68. Are JAG funds that are drawn down fully in advance required to be deposited into a trust fund account?

Yes. States (or SAAs) or units of local government may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund ***must*** be in an interest-bearing account, unless one of the exceptions in 2 C.F.R. § 200.305(b)(11) apply. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit

funds. For additional information, see 2 C.F.R. § 200.305.

69. What is the period of an obligation and an expenditure under a JAG award?

All JAG funds, including interest earned, must be obligated on/after the project start date up to the award end date. Funds that were properly obligated during the project period must be liquidated no later than **120 days** after the project end date. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

70. If a SAA intends to request a pass-through waiver, which requires BJA certification, what is the process?

As noted in the previous FAQ titled, *"*Are states required to pass-through funding to local jurisdictions?*,"* the two types of pass-through that SAAs must administer include Variable Pass-Through (VPT) and less than $10,000.

In certain circumstances, a recipient state may request that a state-administered project and/or a project administered by a nonprofit organization (instead of a unit of local government) may contribute to meeting the VPT or the less than $10,000 pass-through requirement. In general, a state may do so to the extent that (1) the state-administered or nonprofit project will directly benefit a unit of local government, and (2) one unit (or more) of local government voluntarily agrees and acknowledges in an appropriate written certification that the specified amount of state-administered or nonprofit subaward funds would directly benefit the unit of local government in question and agrees that funding the project is in the best interests of the unit of local government.

To request a waiver of the VPT or less than $10,000 pass-through requirement an SAA must:

1. Using OJP's JustGrants system, submit a "Programmatic Costs" Grant Award Modification (GAM), marked "Other" and with "JAG—Pass-through Waiver" typed in the available text box.
2. Attach to the GAM a letter, on the letterhead of the recipient jurisdiction and signed by the recipient's "authorized representative" for the JAG award in question, that:
   (a) Provides a summary of the project(s) and stipulates the project(s) will directly benefit one or more units of local government.
   (b) Lists one or more units of local government that agrees funding of the project is in the best interest of the unit of local government.
   (c) Includes the voluntary written certification(s) from the unit(s) of local government acknowledging the specified amount of state-administered funds would directly benefit the unit of local government and agrees that that the project at the state level is in the best interests of the unit of local government.

71. What are the rules pertaining to tracking and expending funds, including administrative funds across active JAG awards?

Both the recipient and all subrecipients of JAG funds are prohibited from commingling

funds on a program-by-program or project-by-project basis. For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered commingling. However, grantees must be able to track funds separately by award; see DOJ Grants Financial Guide, Section 2.3 for more information.

72. If an agency proposes to use JAG funding to enter a sole source contract greater than the simplified acquisition threshold, what is the process?

State agencies (including territories) and tribes are required to follow their own procurement standards as it relates to competition. For all other JAG recipients, if a proposed procurement contract would exceed the simplified acquisition threshold a recipient of an OJP award may not proceed without competition unless and until the recipient receives specific advance authorization ("sole source" approval) from OJP to use a noncompetitive approach for the procurement. For more information, please see the DOJ Grants Financial Guide, Section 3.8.

73. What is the process for modifying budgets under JAG?

If your agency would like to modify its JAG budget, contact your BJA grant manager with the details of all requested changes. Your grant manager will help you determine whether a Grant Award Modification (GAM) must be submitted in JustGrants. If a GAM is deemed necessary, a Programmatic GAM must be submitted with supporting justification that indicates the reason the modification is requested, as well as a revised budget worksheet and budget narrative. All reporting requirements must be met in order for the GAM to be approved. The contact information for your assigned BJA grant manager is listed in the JustGrants System.

74. Do subawards made under a JAG award require prior approval?

Generally, a recipient of an OJP award may not make subawards unless the recipient has specific federal authorization to do so. However, JAG subawards that are required or specifically authorized by statute (see 34 U.S.C. § 10152(a) and 34 U.S.C. § 10156) do not require prior approval. This includes subawards made under State JAG awards (unless the subawards require a waiver to the VPT and/or less than $10K requirement) and subawards made under Local JAG awards for members of a designated disparate group.

For subawards under a Local JAG award other than to a unit of local government that is a member of a disparate group, prior approval is required. If there are sufficient details on such a subaward included in the JAG application, then issuance of the award may be considered approval of such a subaward.

75. Can a recipient request to close out a JAG award prior to its end date and what are the advantages for doing so?

JAG awards may be closed as soon as all funds have been obligated and all project activities have concluded. A final Federal Financial Report (FFR) and final performance report must be submitted in JustGrants in order to begin the closeout process. In addition, a final PMT report must be completed and uploaded as an attachment to the final programmatic report in JustGrants. After submission and approval of the final performance report, submission of

the final FFR, and drawdown of funds reported in the final FFR, then the grantee must submit the closeout in JustGrants. See the JustGrants Closeout job aid for detailed instructions. The early closure of JAG awards creates efficiencies for grantees and BJA because no additional reports are required after closeout.

76. What are the requirements to close out a JAG award, and when must closeouts be submitted?

In order to close a JAG award in compliance, final progress and financial reports must be submitted and approved and all withholding award conditions must be resolved. A closeout must be submitted no later than 120 days after the project end date. For assistance with submitting a closeout in JustGrants, please refer to the Entity Users Closeout: Job Aid Reference Guide on the JustGrants training page.

77. How can a JAG grantee submit a success story to BJA?

The Success Spotlight webpage contains stories highlighting how BJA grant funds are being used across the country and the impact the funding has had on the recipient agencies and organizations, as well as the communities they serve. This webpage will be a valuable resource for states, localities, territories, tribes, and criminal justice professionals who seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. If you have a story you would like to share for possible inclusion on the BJA site, you can do so using the Submit a Success Story form.

78. Where can we find information on equipment disposal?

The DOJ Grants Financial Guide has information on equipment and supplies disposition specific to JAG in Section 3.8. This information is as follows:
Special rules, set out in 34 U.S.C. 10227 (a provision of the Omnibus Crime Control and Safe Streets Act of 1968), apply to the ownership, use, and disposition of equipment and supplies purchased with Edward Byrne Memorial Justice Assistance Grant Program (Byrne JAG) funds awarded by the Bureau of Justice Assistance (BJA). These rules supersede any conflicting provision of 2 C.F.R. Part 200. See 2 C.F.R. Part 2800.

- Title to all equipment and supplies purchased with Byrne JAG funds vests 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.
- When equipment is no longer needed for criminal justice purposes, a State should dispose of equipment (for both the State and subrecipients) in accordance with State procedures, with no further obligation to the awarding agency.
- The procedures on *use* and *management* of equipment set out above apply to the extent that they do not conflict with 34 U.S.C. 10227.

APPENDIX

Below are some examples of expenditures and projects that, if reasonably related to a JAG statutory programmatic area and meet general cost allowability guidelines, would be an allowable use of funds:

- Wraparound services for criminal justice project participants, to include but not limited to transitional housing for exonerees
- Support reentry projects with the goal of improving outcomes for incarcerated individuals returning to the community from prison or jail
- Support projects related to preventing, detecting, seizing, and/or stopping the presence and use of contraband cellphones within correctional facilities. This includes the purchasing of managed access systems and other mitigation technologies (as permitted by applicable law)
- Purchase fentanyl and methamphetamine detection equipment, including handheld instruments and training for law enforcement safety, as well as opioid reversal agents
- Canines and related equipment/supplies to support any project or purpose with a criminal justice nexus, including drug detection, and/or for civil proceedings
- Hiring and training of cybercrime analysts and investigators
- Support efforts to seal and expunge criminal history information in accordance with state laws and policies
- Support virtual reality de-escalation training
- Purchase humane remote restraint devices that enable law enforcement to restrain an uncooperative subject without inflicting pain
- Purchase gunfire detection technology
- Promote data sharing and sex offender monitoring
- Increased patrols and deployments that bolster the security of at-risk nonprofit organizations including synagogues, churches, mosques, and other places of worship and religious institutions
- To deter, detect, and protect against threats of violence against election workers, administrators, officials, and others associated with the electoral process
- GPS trackers
- Indigent defense
- Overtime (without limitation other than what is reasonable considering services rendered)
- Medication-assisted treatments, such as the purchase of opioid overdose reversal agents (e.g., naloxone)
- Firearms and ammunition, including duty weapons and associated ammunition
- Fugitive Safe Surrender (FSS) and Countering Violent Extremism (CVE) Programs
- Membership dues (except to lobbying organizations)
- Automated license plate readers (ALPRs)
- Technological devices, artificial intelligence, predictive analytics, and other data-driven solutions