

**INNOVATIVE
SOLUTIONS** IN PUBLIC DEFENSE

**Accessing Federal Grants,
Foundation Funds and Other
Supplemental Resources:
A Toolkit for Public Defenders**

MARCH 2020

PREPARED BY

Jack Cutrone
National Criminal Justice Association

EDITED BY

Rosalie Joy
National Legal Aid & Defender Association

This project was supported by grant number 2015-AJ-BX-K043 awarded by the Bureau of Justice Assistance, Office of Justice Programs to the National Legal Aid and Defender Association. The opinions, findings, and conclusions or recommendations expressed are those of the author and do not necessarily reflect the views of the U.S. Department of Justice.

National Legal Aid & Defender Association
© 2020. All Rights Reserved.

Table of Contents

Introduction	1
1. Planning Your Project - The Pathway to Your Goal	2
2. Research Funding that Suits Your Project	6
3. Applying for Funding	19
4. Managing Your Grant Award	25
Conclusion	28
Appendix A: Grants.gov Grants Forecast Guide	29
Appendix B: Sources of Federal Civil Legal Aid Funding	31

Introduction

It will be news to no one that public defense is vastly underfunded in states and localities across the nation. However, defender organizations can supplement their primary funding by tapping into an array of resources available through various types of grants. Supplemental capacity building can include new dollars, new human resources, access to free or low-cost training and technical assistance, subject matter expertise, or goods needed to support your work.

This resource guide was developed as part of the *Innovative Solutions in Public Defense Initiative* of the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. The Initiative sought to help build evidence-based, data-driven strategies to improve the delivery of public defense services. The National Legal Aid & Defender Association (NLADA) provided training and technical assistance under the Initiative, in partnership with the National Criminal Justice Association (NCJA).

This guide offers step-by-step help in planning to take on a capacity building project, searching for funding and non-cash sources, applying for grants, and managing them. The guide is divided into four sections for quick access to information you need:

1. [Plan the project](#)
2. [Research funding options](#)
3. [Apply for funding](#)
4. [Manage the project](#)

Emphasis in this resource guide is on searching and applying for grants awarded by the federal government. However, much of the guidance provided is applicable to other funding agencies, both public and private. Other funding sources covered include state and local governments, local sources of cash and non-cash support through connections with colleges and universities, faith-based organizations, and other types of community support. There are countless entities that offer opportunities to access supplemental capacity-building resources, and you will find references in this guide to just a sampling.

The goal of this guide is to link you to enough information to fuel your planning, searching, and success in developing new resources for your office.

The guide contains icons that flag information that will help with navigating through your projects.



Quick Tips



Cautionary Advice



Questions to Ask

1. Planning Your Project - The Pathway to Your Goal

Planning a grant project should start with making sure you have authority to apply for a grant, and evaluating your capacity to develop an application and to take on new work that will include compliance activities required by the granting agency. Answer the following questions to stay on the right path:

? Does your governing authority allow your agency to apply for supplemental grant resources?

While some public defender agencies are structured as non-profit organizations, most defender offices are created by statute or ordinance, and their powers and duties are usually set forth in that enactment. The enabling legislation and your governing policies should be carefully examined as they may contain restrictions on your ability to seek grant funding.

Can your agency apply for and receive funds outside the normal public funding process? Are you required to secure legislation authorizing you to apply for outside funding? If you receive an award, do you need additional legislation authorizing you to spend it? Do you know if your funding agency has a grants management department that will oversee your grant and charge a cost share for it?

If your agency is not empowered to receive grants or outside funding, and to spend it once received, then it would likely be a futile exercise to apply for a grant. (An exception might be if you are partnering with another agency as a sub-grantee or contractor, educational institution, or non-profit organization, in which case that partner can be the applicant for the grant. For additional details see the “Applying for Funding” section below.) If your agency does not have such power, then you might want to consider contacting the legislative body with a request that your enabling act be amended to add that power. That should not be a hard sell since you are not requesting the ability to spend more tax dollars or other public funds.

A related matter is your regular appropriation. Even if your agency is permitted to receive outside monies, is there a line item in your budget that would allow you to spend it? In many jurisdictions there needs to be a specific line item in your budget, or separate fund account, permitting the expenditure of grant funds or other outside funds. Though appropriation committees are often reluctant to increase an agency’s budget, that reluctance usually disappears with their realization that you are seeking grants or other outside monies that do not impact normal revenue sources.

? Does your organization have the time and experience needed to develop a competitive grant application?

The window of time between announcement of a grant solicitation and the due date for submitting the application is limited. The preparation and the submission of a grant application is a time-consuming process and allowances need to be made to incorporate the extra burden into the agency's workload.



Quick Tip: The federal website **Grants.gov** posts information on grants that federal agencies, such as BJA, plan to award in upcoming grant cycles (grant forecasts).¹ Monitoring this material is a great way to get a head start on a grant application. The guide to grant forecasts is attached to this guide as Appendix A.

Not many defender organizations have dedicated grants personnel on staff. But having an experienced person on staff to develop the application can save you time and spare you the frustration of submitting an application that is not competitive. The experience needed includes familiarity with the mechanics of getting an application submitted as well as an understanding of how to position your project for favorable consideration. A successful proposal will be drafted to read as being in line with the granting agency's mission and values, and will include strategic language that explains what your need or problem is, how you propose to address it, what your expected outcomes are, and how you will measure your success.

If no staff member possesses the necessary skills to write a competitive grant application, help is available. The Bureau of Justice Assistance publishes a grant writing manual, which is available online.² BJA also offers online training through webinars and in-person events.



Quick Tip: If relying on agency staff is not the most efficient grant writing option for you, consider:

- Grant writing help may be available through your governing agency. Alternatively, have other departments applied for grants and can they share their grant writer?
- Check out local business organizations that support community development initiatives.
- Educational institutions that work on grant projects may also be able to connect you to free or affordable services.
- Seeking a professional grant writer to hire through an online search will give you more than a few options. Or, try checking with local non-profit agencies for suggestions of verified, good local help.

¹ See *Grants.gov*, U.S. DEP'T OF HEALTH & HUMAN SERVS., <https://www.grants.gov>.

² See U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, *BJA GUIDE TO GRANTS: FY10 EDITION (2009)*, available at <https://www.bja.gov/publications/grantwritingmanual.pdf>.

Does your agency have the capacity to take on new work? Consider not only the project itself, but all the administrative tasks involved with grant compliance

Evaluating your capacity to take on new work should include mapping out the work activities, identifying who would be responsible for them, estimating the time it will take to accomplish them, and finally, evaluating the existing workload of the people who will be needed to work on the grant. Keep in mind that the time needed to undertake most new projects is almost always under-estimated. Will you have to ease the workload of your project staff by reassigning existing duties to someone else? Do you have a qualified leader on staff who will be able to manage the grant? If the answer is no or you are not sure, you still have options, including seeking project partners.

Partnering with Other Organizations



Quick Tip: Partner with another department, non-profit agency, or educational institution to manage the workload and bring on subject matter expertise.

Your grant application will likely call for details about the size of your department and your operating budget. You will also need to convey information about why you are qualified to take on your project idea. If you are new to grant funding, or if you don't have all the expertise that your idea calls for, find a partner that fills any gaps that your organization profile may reveal. Additionally, the trend in federal grant awards is to encourage collaboration by supporting the involvement of other entities that bring valuable insight and expertise to projects.

Research Professionals

If you are proposing a project that involves any type of research, such as evaluating an innovation or measuring outcomes with data, partnering with a research organization can significantly elevate your proposal. Typically, a public defense agency will have an idea of what can be learned from a proposed project, but a researcher's expertise in analytics may reframe what the practitioner thinks they know, and can steer ideas for tracking data, controlling for variables, and measuring outcomes in an unexpected and more feasible direction. The research agency is in the best position to describe what analysis of project data can or cannot teach. By all means, ask the researcher to explain the research plan in plain language to avoid uncertainty.

Get on the same page early to avoid difficulties later down the line. Talk through the project with the partner and identify what tasks need to be done, by when, and importantly, by whom. Commit to a written plan that includes a brief outline/timeline for the project and an agreement on the specifics of what each partner is going to do. This plan will be helpful when writing the grant proposal, during implementation, and in ongoing project management.



Quick Tip: NLADA's report, *Researcher-Practitioner Partnerships: Applying a Collaborative Model to Improve Indigent Defense Systems*³ (September 2019), was prepared as part of BJA's Innovative Solutions in Public Defense Initiative. It is an excellent resource for defender programs that are seeking advice on how to locate and work effectively with a research partner.

Local Non-Profits

Local non-profit agencies who provide services that your clients need may be a fruitful source for improving the quality of your representation and increasing the services you are able to provide. If your project goal is to enhance access to community services for your clients, you should identify those agencies and approach them with your idea.



Quick Tip: You may find a grant opportunity that limits eligible applicants to non-profit agencies. Finding one that supports your goal and proposing that they be the primary applicant, with your organization listed as an intended sub-grantee, can get you access to otherwise restricted dollars. At the same time, the applicant agency benefits by the additional capacity created to support their work: a win-win.

³ See *Innovative Solutions in Public Defense Initiative*, NAT'L LEGAL AID & DEFENDER ASS'N, <http://www.nlada.org/smart-defense>.

2. Research Funding that Suits Your Project

Generating Ideas: How to Decide What Project to Take On

Your agency may have a specific project in mind or a recognized area of need, or it may have a general desire to improve services without a developed project idea. Before you begin searching for suitable funding options, you should investigate whether projects similar to your idea have been successfully undertaken elsewhere. If so, you can point to them as projects worth replicating. It is just as valuable, though, to know if similar projects were unsuccessful. Without such research, an agency might be trying to reinvent the wheel, or worse yet, build a wheel that others have found to have a flat tire.



Quick Tip: CrimeSolutions.gov is a compendium of criminal justice programs and practices that are rated for effectiveness as shown by empirical research.⁴ While the website is both comprehensive and searchable, it can be difficult to craft search terms which pull up programs that relate strictly to the public defense function. Easier to locate are rated programs, e.g., specialty courts, diversion programs, and the like, of which indigent defense is a part.

Federal Grant-Making Agencies

There are numerous agencies within the federal government that have grant-making authority. The list of federal agencies, along with grants both current and past, can be located on the Grants.gov site.⁵ Federal funding opportunities are typically made through time-limited solicitations that invite applications for projects that seek to address various criminal justice system issues. Grants.gov is a valuable gateway to information about all current and closed federal funding opportunities. For criminal justice grant funding opportunities in particular, the U.S. Department of Justice, Office of Justice Programs website offers up-to-date information about open solicitations and past funding opportunities.⁶ The same website contains a tremendously helpful grant application resource guide.⁷



Quick Tip: It is not always obvious which federal agency will fund your project. Be sure to explore every agency's website to discover what projects they are currently funding. For example, the Department of Agriculture has provided funding for projects addressing the opioid crisis.

⁴ See *CrimeSolutions.gov*, NAT'L INST. OF JUSTICE, <https://www.crimesolutions.gov>.

⁵ See *Grants.gov, Grant-Making Agencies*, U.S. DEP'T OF HEALTH & HUMAN SERVS., <https://www.grants.gov/web/grants/learn-grants/grant-making-agencies.html>.

⁶ See U.S. Dep't of Justice, Office of Justice Programs, *Current Funding Opportunities*, U.S. DEP'T OF JUSTICE, <https://ojp.gov/funding/Explore/CurrentFundingOpportunities.htm#OpenChals>.

⁷ See U.S. Dep't of Justice, Office of Justice Programs, *2019 OJP Grant Application Resource Guide (November 30, 2018)*, U.S. DEP'T OF JUSTICE, <https://ojp.gov/funding/Apply/Resources/Grant-App-Resource-Guide.htm>.

The U.S. Department of Justice, Office of Justice Programs (OJP) is a major source of funding for federal criminal justice grants. Grant-making program agencies under OJP include the Bureau of Justice Assistance (BJA); the Bureau of Justice Statistics; the National Institute of Justice; the Office of Victims of Crime; the Office of Juvenile Justice and Delinquency Prevention; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. For defender agencies, the agency that probably offers the most relevant funding opportunities is BJA.⁸

Users of Grants.gov are able to search by federal agency and topic, and also by prior grant awards. The best search strategy may be counterintuitive. For example, searching for “defense” without selecting more narrow categories is too broad and likely to produce unwanted search results (e.g., national defense and homeland security grants). Similarly, searching for “public defense” is likely to be too narrow, as that search will probably eliminate opportunities that are aligned with your work and that you are eligible to apply for. The most fruitful searches may instead focus on the particulars of your project: e.g., “jails” if your project has to do with early release, or “homeless” or “drugs” or “mental health” if your project concerns holistic programming. You can also narrow your search: choose from current (“open”) and past (“closed” and “archived”) grants under “Opportunity Status”; choose “grant” as the “instrument type”; and/or choose “Department of Justice” as the “agency.”

The screenshot shows the Grants.gov search results page. The search criteria are set to 'All Department of Justice'. The results table is as follows:

Opportunity Number	Opportunity Title	Agency	Opportunity Status	Posted Date ↓	Close Date
BJA-2019-16890	BJA FY 19 Second Chance Act Pay for Success Initiative: Outcomes-based Contracting To Lower Recidivism and Homelessness	USDOJ-OJP-BJA	Posted	08/13/2019	10/15/2019
BJA-2019-16770	BJA FY 19 Reducing Injury and Death of Missing Individuals with Dementia and Developmental Disabilities Program	USDOJ-OJP-BJA	Posted	08/13/2019	10/15/2019
BJA-2019-16313	Gulf States Regional Law Enforcement Technology Assistance Initiative	USDOJ-OJP-BJA	Posted	08/05/2019	10/04/2019
BJA-2019-16850	BJA FY 19 An Academic-based Training Initiative to Improve Police Responses for People with Mental Illness and Intellectual and Developmental Disabilities	USDOJ-OJP-BJA	Posted	08/05/2019	10/04/2019
20JD01	National Sheriffs Institute	USDOJ-BOP-NIC	Posted	07/24/2019	09/24/2019
OWW-2019-16710	OWW 2019 Alaska Full Faith and Credit Training and Technical Assistance Request for Concept Papers	USDOJ-OJP-OWW	Posted	07/22/2019	10/02/2019

Fig. 1: Screenshot of Grants.gov search for “All Department of Justice” grant opportunities on 9/25/19.

⁸ See U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Overview*, U.S. DEP’T OF JUSTICE, <https://www.bja.gov/Jag/index.html>.

Byrne JAG Funding

The primary BJA funding stream is the **Edward Byrne Memorial Justice Assistance Grant Program (JAG, or Byrne JAG)**.⁹ Byrne JAG awards are listed on the BJA website by federal fiscal year of the grant award.¹⁰ Perusing each year's awards will bring you first to a list of that year's solicitations. By selecting a solicitation year you will be taken to a list of grants awarded under it.¹¹ The list will include the jurisdiction receiving the award, the amount of the award, a hyperlink to the solicitation, and the title of the grant funded project, which often will give an indication of the very general nature of the funded project. Further detail about the project can often be obtained by contacting the jurisdiction involved.

The Byrne JAG Program supports the federal government goals of spurring innovation, and supporting testing and replication of evidence-based practices at the state and local level. By statute, there are eight allowable purpose areas for Byrne JAG funding:¹²

- 1) law enforcement programs;
- 2) prosecution and court programs, including indigent defense;
- 3) prevention and education programs;
- 4) corrections, community corrections and reentry programs;
- 5) drug treatment and enforcement programs;
- 6) planning, evaluation, and technology improvement programs;
- 7) crime victim and witness programs (other than compensation); and
- 8) mental health programs and services.

Because of its broad flexibility, when prioritizing grant opportunities to pursue, Byrne JAG funding should be high on the list for many state and local defender programs. However, defenders may need to engage in some research and outreach to best position themselves to successfully access Byrne JAG funding.

How Byrne JAG Grants Work

Of the total funding appropriated to support Byrne JAG grants each year, BJA retains a portion to award directly to grantees. That portion of Byrne JAG funding is for “discretionary” grants.¹³ Applicants seeking awards through discretionary funding will apply directly to BJA in response to competitive solicitations. The majority of Byrne JAG funding is allocated to states and local jurisdictions according to a statutory formula.¹⁴ Those Byrne JAG funds are referred to as “formula” grants, and applicants for support through formula funding will apply to the relevant administering agency in their state.

⁹ See 42 U.S.C. § 3751(a).

¹⁰ See U.S. Dep't of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Funding*, U.S. DEP'T OF JUSTICE, <https://www.bja.gov/funding.aspx>.

¹¹ See, e.g., U.S. Dep't of Justice, Office of Justice Programs, *Awards Made for “BJA FY 18 Adult Drug Court Discretionary Grant Program: CATEGORY 1: IMPLEMENTATION,”* U.S. DEP'T OF JUSTICE, <https://external.ojp.usdoj.gov/selector/title?solicitationTitle=BJA%20FY%2018%20Adult%20Drug%20Court%20Discretionary%20Grant%20Program:%20CATEGORY%201:%20IMPLEMENTATION&po=BJA>.

¹² See U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS) – UPDATED MARCH 2019 12 (2019), *available at* <https://www.bja.gov/Funding/JAGFAQ.pdf> [hereinafter BYRNE JAG FAQs].

¹³ U.S. Dep't of Justice, Office of Justice Programs, *OJP Grant Process*, <https://www.ojp.gov/funding/Apply/GrantProcess.htm>.

¹⁴ See BYRNE JAG FAQs, *supra* note 12, at 2.

Discretionary Grants

The discretionary Byrne JAG grants awarded by BJA may be a fertile source for indigent defense agencies seeking funding. Byrne JAG grew out of the Law Enforcement Assistance Administration grant program, which originally focused on law enforcement needs.¹⁵ Defender agencies have not consistently received a portion of these funds. Since 2010, however, indigent defense has been identified by the Justice Department as one of several key priority areas for maximizing the effectiveness of Byrne JAG funding.¹⁶ This category includes establishment and enhancement of drug courts, drug court training, justice and mental health collaborations, pretrial justice initiatives, collaborative human trafficking efforts, improvement of public safety and health outcomes for justice involved populations, assistance for clients in enrolling in Medicare so that they may receive necessary health services, and periodic solicitations for programs “to improve criminal courts.”

These types of projects require collaboration between defender services and other justice sectors. Generally the other sectors take the lead in applying for these grants. Public defender organizations can take an active role in working with these other sectors to take advantage of these grant opportunities. Defenders need to stay alert for such opportunities—e.g., by monitoring solicitations on Grants.gov—and be ready to pursue collaborations with other justice sectors. Typically, BJA looks favorably on cross-sector collaborations in grant applications.

Awards under the broad Byrne JAG category known as “Encouraging Innovation: Field-Initiated Programs” have supported indigent defense projects,¹⁷ including the San Francisco Public Defender’s development of case preparation checklists and the Michigan Indigent Defense Commission’s social worker sentencing project. Other discretionary BJA grants are aimed squarely at defense providers. Grant projects in that category include wrongful conviction review, capital case litigation initiatives, and possibly grants to agencies that provide services to Native American tribal justice systems.

Another such grant program was a 2015 solicitation entitled “Smart Defense Initiative Answering Gideon’s Call: Improving Public Defense Delivery Systems,” which BJA subsequently rebranded as the Innovative Solutions in Public Defense Initiative. Awards were made under this solicitation to six jurisdictions, three of which were at the state level (Kentucky, Texas, and Wisconsin), two at the county level (Alameda and Contra Costa Counties, California) and one to the Mayor’s Office of Criminal Justice in New York City. The

¹⁵ See Nat’l Archives, *Records of the Law Enforcement Assistance Administration [LEAA]*, U.S. NAT’L ARCHIVES & RECORDS ADMIN., <https://www.archives.gov/research/guide-fed-records/groups/423.html>.

¹⁶ The 2012 Byrne JAG solicitation specified for the first time that states’ strategic planning process for Byrne JAG awards include a variety of partners, including law enforcement, courts, prosecutors, victim advocates, corrections officials, and providers of indigent defense services. See *Indigent Defense Grants, Training and Technical Assistance*, U.S. DEP’T OF JUSTICE (Oct. 24, 2018), <https://www.justice.gov/archives/atj/indigent-defense-grants-training-and-technical-assistance>; see also 34 U.S.C. § 10153, available at <https://uscode.house.gov/view.xhtml?path=/prelim@title34/subtitle1/chapter101/subchapter5/partA&edition=prelim>.

¹⁷ E.g., *Awards Made for “BJA FY 09 Encouraging Innovation: Field-Initiated Programs”*, U.S. DEP’T OF JUSTICE (Jan. 3, 2020), <https://external.ojp.usdoj.gov/selector/title?solicitationTitle=BJA%20FY%2009%20Encouraging%20Innovation:%20Field-Initiated%20Programs&po=BJA>.

funded programs introduced and evaluated a range of interventions, including improving performance oversight of appointed counsel, strengthening case management systems, improving county reporting of indigent defense data to a statewide body, instituting a counsel at first appearance program, and piloting a unique collaboration between the public defender and local police agencies to reduce failure-to-appear warrants at the first court date. These innovative programs can serve as models for other grant applications.¹⁸

BJA also supports efforts to promote justice system agency information-sharing.¹⁹ Public defense agencies are eligible to apply for funding in this vein, which can assist in developing or enhancing case management systems. In many instances, justice information-sharing among the various justice system sectors can be fully automated instead of relying on manually entered data. For example, case data can be directly imported into the defender case management system from court or jail data systems, relieving the need for duplicative, tardy, and often error-prone manual data entry. Public defense agencies can be understandably leery of taking part in such efforts, for fear that confidential client information may be accessed by law enforcement and prosecution agencies, just as law enforcement and prosecution agencies are fearful that their confidential information might be accessed by defense attorneys. However, a routine part of the development of such information sharing systems is the development of protocols governing permissions for accessing data from other sectors so that only non-confidential data might be accessed.

Note that, unlike formula grants (described below), applications for discretionary grants need to be submitted directly to BJA.

Formula Grants

BJA initially calculates the total formula award of Byrne JAG funding to each state based on the state's population and reported crime statistics.²⁰ Of that total award, 60 percent is awarded to state administering agencies (SAAs), and 40 percent is awarded directly to units of local government, again based on population and reported crime statistics.²¹ Units of local government that do not report crime statistics to the FBI's Uniform Crime Reports are not eligible for an award.

What is an SAA?

As explained by the National Criminal Justice Association: "State Administering Agencies (SAAs) are entities within state and territorial governments and the District of Columbia that are responsible for comprehensive criminal justice planning and policy development. In addition, these agencies allocate resources statewide and distribute, monitor and report on spending under the federal Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) program and, in most cases, other grant programs. As required by federal statute, the SAA is designated by the Governor, or in

¹⁸ A series of fact sheets about the six Innovative Solutions in Public Defense Initiative is available on NLADA's website at <http://www.nlada.org/smart-defense>, along with other related resources.

¹⁹ *E.g.*, *FY 2009 Solicitations for BJA*, U.S. DEP'T OF JUSTICE, <https://external.ojp.usdoj.gov/selector/office?po=BJA&fiscalYear=2009>.

²⁰ See BYRNE JAG FAQs, *supra* note 12, at 2.

²¹ See 34 U.S.C. § 10156(b), *available at* <https://uscode.house.gov/view.xhtml?path=/prelim@title34/subtitle1/chapter101/subchapter5/partA&edition=pr elim>.

the case of territories and the District of Columbia, the head of the executive branch.”²²

The award to the SAA is divided between funding for state and local programs. The amount that the SAA must award to local programs is referred to as “variable pass-through,” and the percentage of the state’s award which is for local activities varies from state to state and year to year.²³ The SAA also receives another pot of money that must be used for local programming for all of a state’s units of local government that would receive a direct grant of less than \$10,000. Rather than deal with administering multiple small awards itself, BJA awards that funding to the SAA to then allocate for local programming.

Byrne JAG funding has been available for decades, but Congress periodically modifies priority funding areas and eligibility rules.²⁴ Most recently, the Justice for All Reauthorization Act, passed in December 2016, required all applicants for Byrne JAG state formula grant awards to include a statewide strategic plan that addresses resource allocation, use of data, and implementation of evidence-based practices. Critically for defenders, this comprehensive plan must be created in consultation with local governments and a diverse group of stakeholders, defined in the Act as “representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, corrections personnel, and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services.”²⁵

Learn More About Byrne JAG

The National Criminal Justice Association (NCJA) is primarily a national association of SAAs and a key resource for learning about state level Byrne JAG funding. On a national basis, Byrne JAG funding is spread across the eight purpose areas but there is a heavy emphasis on law enforcement.²⁶ Within recent years, BJA has made indigent defense more of a priority. According to NCJA, in 2013-2014, twelve SAAs provided over \$4 million for state and local public defense initiatives, up from \$1.3 million provided to indigent defense in 2012.²⁷ More recent investments can be found in NCJA’s **Library of Byrne JAG Promising Programs**, which includes examples of promising programs in all 50 states and Washington, DC funded

²² *State Administering Agencies*, NAT’L CRIMINAL JUSTICE ASS’N, <https://www.ncja.org/ncja/policy/about-saas>.

²³ *See Justice Assistance Grant (JAG) Program Variable Pass-through (VPT) Percentages*, U.S. DEP’T OF JUSTICE, <https://www.bja.gov/jag/pdfs/VPT-for-SAAs-updated-June-2017.pdf>.

²⁴ The original Edward Byrne Memorial State and Local Law Enforcement Assistance Program grew out of the Omnibus Crime Control and Safe Streets Act of 1968 to assist state and local governments in strengthening and improving the operation of law enforcement functions in the states. *See Nat’l Archives, Records of the Law Enforcement Assistance Administration [LEAA]*, U.S. NAT’L ARCHIVES & RECORDS ADMIN., <https://www.archives.gov/research/guide-fed-records/groups/423.html>.


²⁵ Justice for All Reauthorization Act of 2016, Pub. L. No. 114-324, § 14(b)(2) (codified as amended at 34 U.S.C. § 10153(a)(6)(A)) (emphasis added).

²⁶ *See Byrne JAG Spending Data*, NAT’L CRIMINAL JUSTICE ASS’N, <https://www.ncja.org/byrne-jag-investments-and-impact/expenditures-by-project-type>.

²⁷ NCJA CENTER FOR JUSTICE PLANNING, SUPPORT FOR STATE AND LOCAL PUBLIC DEFENSE: STATE FORMULA SPENDING FOR THE BYRNE JAG PROGRAM (2014), available at https://higherlogicdownload.s3.amazonaws.com/NCJA/8d0b2ead-b5b8-47ef-96d0-9aca227fcbb2/UploadedImages/Byrne_JAG_Investments/2014_Topical_One-Pagers/NCJP_byrne-jag_public-defense_one-pager.pdf.

by Byrne JAG, some of which relate to indigent defense.²⁸ The library can be browsed by program area, project type, or state. The program area “Prosecution, Courts and Indigent Defense” pulls up profiles of public defender projects in Illinois, Indiana, Michigan, Ohio, New York, Pennsylvania, and Rhode Island. Projects address pre-trial advocacy, attorney training, alternative sentencing specialists, case management system development, and support for defenders in rural areas.

Although constrained by federal requirements, the grant practices of the individual SAAs can vary widely. Most SAAs have a governing board or commission. These boards are generally responsible for the development of the strategic planning process as well as the actual award of grants to applicants. The administrative function, however, is usually performed by the SAA staff including the development of a draft strategic plan, the development of grant solicitations and administration of grants awarded.

 **Quick Tip:** Defender agencies interested in applying for Byrne JAG grant funding need to become familiar with the SAA for their state. NCJA has a **state-by-state directory of SAAs** which provides a link to each SAA’s website and gives contact information for the agency’s JAG grant manager.²⁹

SAA websites generally provide information about the agency’s governing board, its grant process, past grant awards, available funding opportunities and instructions for grant applicants. The website should be checked periodically for notices of new grant opportunities as well as notices of meetings of the governing board or a board subcommittee which awards grants. Attendance at a few such meetings can give valuable insight into the agency’s grant award process.

Many governing boards have one or more representatives of indigent defense services. Such defense representatives should be willing to meet with defense agencies interested in applying for grants and share their experiences and insights. While it may be appropriate in such a meeting to discuss the need for more indigent defense funding generally, it would likely not be appropriate to discuss a particular program or project for which your agency might seek funding. Most SAAs use a competitive grant application process and have strict rules to avoid conflicts or any appearance of impropriety in the application process. Similarly, an indigent defense agency might request a meeting with the Byrne JAG grant manager at the SAA. Such a meeting can be a good introduction to the SAA and provide an opportunity to gather more information about the practical aspects of the grant application process, the agency’s priorities, as well as funding streams other than Byrne JAG for which an indigent defense agency might apply. Depending on agency rules, it would likely be considered inappropriate to use such a meeting to present a specific grant proposal, but the grant manager might be willing to discuss whether some general areas of interest might fall within upcoming grant opportunities.

²⁸ See *Library of Programs Funded by Byrne JAG*, NAT’L CRIMINAL JUSTICE ASS’N, <https://www.ncja.org/byrne-jag-investments-and-impact/state-jag-investments>.

²⁹ See *State Administering Agencies: Agency Directory*, NAT’L CRIMINAL JUSTICE ASS’N, <https://www.ncja.org/state-agencies/agency-contact>.

As mentioned, BJA requires a strategic planning process for SAAs and further requires that indigent defense be part of that planning process.³⁰



Quick Tip: Indigent defense providers are advised to attend any public strategic planning meetings of their SAA, and to take advantage of BJA rules regarding the SAA seeking public comment during the planning process to promote funding for indigent defense.

Keep in mind that there is a great deal of competition for limited Byrne JAG funds. Need alone is not enough. A grant application needs to make a compelling case why the proposed program should be funded. Projects which can be projected or shown to reduce overall criminal justice costs or increase public safety, for example by reducing recidivism, are going to be viewed more favorably. An additional strategy is to look for projects involving collaborations with other criminal justice agencies. By all means, follow the agency's application guidelines scrupulously: the best idea in the world is not going to be funded if the application neglects a mandatory requirement in the application.



Quick Tip: The John R. Justice grant program provides partial reimbursement to public defenders and prosecutors for educational loans. The BJA website provides webinars and other resources for accessing this opportunity.

Other Federal Resource Ideas

Defense agencies that provide holistic representation to clients are often searching for ways to link clients to services that address underlying drivers of unlawful conduct. Funding to address homelessness, mental illness, trauma, addiction, and other problems is available through the federal government, as well as state and local governments. Some examples of holistic resources to explore include the following:

- **U.S. Department of Housing and Urban Development (HUD)** provides funding to state and local governments to address homelessness. Jurisdictions participating in this funding stream may have Continuum of Care (CoC) agencies that galvanize all local homeless service providers to organize cohesive strategies for reducing homelessness. CoCs can be approached about supporting the efforts of public defense offices to link clients to housing. One strategy for getting support is to track data related to the number of homeless clients getting arrested and making the case that there should be a partnership between the public defender and the CoC to link homeless people to care.
- **Substance Abuse and Mental Health Services Administration (SAMHSA)** is another federal agency that may offer grants for projects that could be of benefit to clients of public defender agencies and in which a defender agency may serve as a collaborator. Past grants include “Law Enforcement and Behavioral Health Partnerships for Early Diversion (Early Diversion Grants),” “Grants to Expand Substance Abuse Treatment

³⁰ See 34 U.S.C. § 10153(A)(6), available at <https://uscode.house.gov/view.xhtml?path=/prelim@title34/subtitle1/chapter101/subchapter5/partA&edition=prelim>.

Capacity in Family Treatment Drug Courts (Family Treatment Drug Courts),” and “Offender Reentry Program” grants.

- **The National Institute of Justice (NIJ) of the DOJ Office of Justice Programs** posts information about indigent defense research projects it has funded in the past.³¹ Of particular interest is the publication on the Topical Working Group Meeting on Right to Counsel and Indigent Defense held by NIJ in 2015. The report includes meeting topics, notes, and presentations, and its material addressing what research has shown about indigent defense practices can serve as the basis for a grant application.³² Also available through the NIJ website is information on projects it has funded in the past, including some indigent defense projects, such as effects of the implementation of indigent defense standards,³³ on early appointment of counsel,³⁴ of holistic defense,³⁵ and DNA testing projects.

Additionally, NLADA has resources and programs that can help you find ways to access federal funding and support:

- **Civil legal aid grants** may support indigent defense agency holistic projects that align with meeting the civil legal needs of clients. NLADA has assembled a resource that lists federal funding sources for various civil legal aid issues. The list, which may be of interest to defender programs, is included as Appendix B.³⁶ NLADA also has a Civil Legal Aid Federal Funding Resources section on its website.³⁷
- **Sixth Amendment rights** guaranteed by the U.S. Constitution are the subject of new initiatives and policy changes that are being supported through federal training and technical assistance (TTA) opportunities. Access to these grants can be found through the BJA portal, along with other tools and resources developed by NLADA.³⁸
- In partnership with the Corporation for National and Community Service (CNCS), **AmeriCorps VISTA** (Volunteers in Service to America) program, NLADA embeds AmeriCorps VISTA members for twelve-month terms in defender offices across the

³¹ See *National Institute of Justice*, U.S. DEP’T OF JUSTICE, <https://nij.ojp.gov>.

³² U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, NAT’L INST. OF JUSTICE, NCJ 248692, TOPICAL WORKING GROUP MEETING ON RIGHT TO COUNSEL AND INDIGENT DEFENSE (2015), available at <https://www.ncjrs.gov/pdffiles1/nij/248692.pdf>.

³³ See SCOTT WALLACE & DAVID CARROLL, NAT’L LEGAL AID & DEFENDER ASS’N, THE IMPLEMENTATION AND IMPACT OF INDIGENT DEFENSE STANDARDS (2003), available at <https://nij.ojp.gov/library/publications/implementation-and-impact-indigent-defense-standards-december-2003> and <https://www.ncjrs.gov/pdffiles1/nij/grants/205023.pdf>.

³⁴ As this guide goes to publication, the report referenced here is not yet available.

³⁵ See James M. Anderson, Maya Buenaventura & Paul Heaton, *The Effects of Holistic Defense on Criminal Justice Outcomes*, 132 HARV. L. REV. 819 (2019), available at <https://nij.ojp.gov/library/publications/effects-holistic-defense-criminal-justice-outcomes> and https://harvardlawreview.org/wp-content/uploads/2019/01/819-893_Online.pdf.

³⁶ See also *Funding Resources*, NAT’L LEGAL AID & DEFENDER ASS’N, <https://legalaidresources.org/funding-resources>.

³⁷ See *LegalAidResources.org*, NAT’L LEGAL AID & DEFENDER ASS’N, <https://legalaidresources.org>.

³⁸ See *Protection of Constitutional Rights Under the Sixth Amendment*, <https://bjaojp.gov/program/sixthamendment/resources>

country to provide skilled, boots-on-the-ground assistance focusing on expanding evidence-based practices, data management, community partnerships, and more.³⁹

Researching past and present grant opportunities will accomplish two objectives. First, you will find grants that are directed toward indigent defense projects. Second, this type of research can strengthen your grant proposal by allowing you to identify projects that have been shown to be effective and which may address your specific needs. Replicating or building upon a successful program gives a grant proposal a significant advantage. It is no longer enough to propose that you will provide services to some number of clients. Rather, you should be concerned, as the potential funder will be, that these services can result in positive outcomes for those clients or for the justice system as a whole.

Non-Federal Grant Resources

The scope of grants and other funding opportunities outside of those offered by the federal government is vast, and requires legwork to research suitable possibilities. The following section offers suggestions of sources of non-federal funds and resources to explore.

- **State and Local Governments**

- State legislators, commissioners, and city council members may have funding set aside to support projects in the districts they represent.
- Check with government offices of community affairs and other community health and development agencies.



Quick Tip: GovGrantsHelp.com has a grants database, including information about federal, state, local and corporate grant opportunities.⁴⁰

- **Philanthropic and Foundation Giving**

- Foundation websites often provide information about their mission, the types of projects they fund, and the means by which they may be approached or “pitched” a funding idea. Many foundations do not accept unsolicited grant proposals but can be approached with a letter of interest (LOI). A guide to writing an LOI and a sample LOI can be found on The Balance’s website.⁴¹

- **Corporate Giving**

- Corporate giving is another potential source of funding for a wide range of projects and resource needs. Just as there are large and small corporations, there are large and small funding ideas. Think creatively! Smaller grants from large national corporations could include supplies to fix a client’s home that is the subject of housing code violations, donations of gently used computers, or education grants for clients. Look for community giving pages on large corporations’ websites for information on their giving processes. Applications are very easy and quick.

³⁹ See *Defending Communities in Service - A New AmeriCorps VISTA Project Through NLADA*, NAT’L LEGAL AID & DEFENDER ASS’N, <http://www.nlada.org/vista>.

⁴⁰ See *GovGrantsHelp.com*, EFFICIENTGOV.COM, <https://www.govgrantshelp.com>.

⁴¹ See Alison Doyle, *Letter of Interest Examples and Format*, The Balance Careers (May 9, 2019), <https://www.thebalancesmb.com/search?q=letter+of+interest>.

- **Faith-Based Organizations**
 - Churches and other faith-based organizations may be sources of volunteers and perhaps partners for projects funded by other sources. Additional potential benefits to working with faith-based organizations include enhanced access to members of your community, development of relationships with community members and organizations, and more effective public education about your own services.


- **Local Business and Non-Profits**
 - Chambers of Commerce, downtown business associations, councils on tourism, and community reinvestment/development organizations typically invest in initiatives that create healthier cities, as well as initiatives that provide services to homeless people. Check the websites of these organizations for more information on how they support these initiatives.

 - Some non-profit agencies may need your clients to meet their grant funded service quotas. Non-profit service agencies should be explored as partners to provide services that support your project proposals.

- **Legal Sector Volunteers and Interns**
 - Bar associations, law firms with pro bono practice groups, and law schools are also potential sources of support.
 - *Pro bono counsel:* The Association of Pro Bono Counsel (APBCo) is an organization that offers assistance to public interest organizations working to improve access to justice across America. Its membership is comprised of law firms from across the nation who have full time pro bono practice sections and offer varying degrees of support and assistance. APBCo's website includes a locator tool to find a member law firm near you.⁴² Also, less experienced corporate practice attorneys may be seeking structured opportunities to hone or develop trial or appellate skills that may benefit defender agencies, such as through second chair trial programs.
 - *Law schools:* Law students can assist in a variety of ways. Many law schools have trial practice programs, and offering law schools the opportunity to place students as interns at a public defense agency may be of value to the schools and its students. Law students may assist with legal research or be trained to prepare discovery motions, answers, or other filings, and can lift some of the time burden from staff attorneys.

- **Administrative Volunteers or Interns**
 - Vocational schools, colleges and even high school interns can perform some time-consuming, non-legal functions such as filing, copying, or data entry and free up attorneys or other staff members for more demanding work.

⁴² See APBCO/NLADA Offices, ASS'N OF PRO BONO COUNSEL, <https://apbco.org/interactive-map>.

 **Note:** Consider the feasibility of implementing a volunteer or internship program before embarking on one. Agencies should be aware of funder rules and regulations for using volunteer support. Capacity to supervise volunteers, the scope of work assigned and whether or not that presents any barriers to maintaining client confidentiality should be evaluated first. Effective volunteer programs are equipped with program managers who work to ensure meaningful volunteer opportunities, compliance with applicable labor laws and workforce management regulations, appropriate supervision, measures for success, and ongoing project evaluation.

- **Colleges & Universities: Research and Practicum Support**

- Colleges and universities can be a rich resource for accessing student assistance, fellows, and partnerships to conduct research, and collect and analyze data. These institutions can also be eligible to apply for grant funding to conduct research and statistical analysis and may function as the primary applicant or partner for your project. Also, experiential education is a priority for many academic disciplines, including criminal justice, law, applied research, sociology, psychology, social work, forensics, communications, public policy, information technology, and more. Gaining experience through working in a public defender office can be an untapped resource for schools and a welcome addition to the experiential options available to students from various disciplines. Defender projects can expand options available to departments looking for projects that align with their learning objectives.



Quick Tip: In the current climate of evidence-based programs and data-driven decision-making, it is critical to be able to communicate the projected outcomes of a proposal and to demonstrate how the project will measure actual outcomes. It would be unusual for an indigent defense agency to have such capacity in existing staff, but research expertise with data and analytics can be accessed by contacting universities for basic consultation and advice and even exploring opportunities to partner in a research project. NLADA's report, *Defender Data Exchange: Boosting Defenders' Research and Data Capabilities*, offers guidance for defender agencies seeking to work with university faculty and staff partners on research projects.⁴³

- **National Organizations that Support the Work of Public Defense**

- Organizations that support public defense can be a source of support through access to training and subject matter expertise, as well as information about what is currently being funded by government and private sources. A few examples include:
 - National Criminal Justice Association (NCJA)
 - National Legal Aid & Defender Association (NLADA)

⁴³ See MAREA BEEMAN & MICHAEL MROZINSKI, NAT'L LEGAL AID & DEFENDER ASS'N, DEFENDER DATA EXCHANGE: BOOSTING DEFENDERS' RESEARCH AND DATA CAPABILITIES (2018), available at <http://www.nlada.org/sites/default/files/pictures/2018-03-20%20DDX%20Paper%20covered.pdf>.

- Black Public Defender Association (BPDA)
- National Alliance of Indigent Defense Educators (NAIDE)
- National Alliance of Sentencing Advocates and Mitigation Specialists (NASAMS)
- National Association for Public Defense (NAPD)
- National Association of Criminal Defense Lawyers (NACDL)
- Sixth Amendment Center (6AC)
- Center for Court Innovation (CCI)
- Indigent Defense Research Association (IDRA)

Grant-Finding Tools

Understanding the landscape of funding possibilities is a valuable first step. Identifying specific funding opportunities that align with your needs may require some time-consuming research. If your time is limited, a number of other organizations serve as grant-finders, some without charge, some with a subscription or membership fee. A few examples are:

- **Inside Philanthropy** is a free service that allows you to search for grants using a number of criteria.⁴⁴
- **GrantSpace** offers a free video training, “Introduction to Finding Grants.”⁴⁵ GrantSpace subscribers also have access to a searchable foundation directory and a listing of grants they have awarded.⁴⁶
- **GrantWatch** offers a free subscription to a weekly listing of new grant opportunities, but details about each grant offering are only available to subscribers.⁴⁷
- The **National Criminal Justice Association** offers monthly grant listings to its members.⁴⁸

⁴⁴ See *GrantFinder*, INSIDE PHILANTHROPY, <https://www.insidephilanthropy.com/find-a-grant>.

⁴⁵ See *GrantSpace, Video: Introduction to Finding Grants*, CANDID, <https://grantspace.org/training/introduction-to-finding-grants-2>.

⁴⁶ See *Foundation Directory Online*, CANDID, <https://fconline.foundationcenter.org>.

⁴⁷ See *GrantWatch*, GRANTWATCH, <https://www.grantwatch.com>.

⁴⁸ See *National Criminal Justice Association*, NAT’L CRIMINAL JUSTICE ASS’N, <http://www.ncja.org>.

3. Applying for Funding

Administrative Preliminaries

Positioning your organization to submit a grant application entails some administrative and background work that can be undertaken in advance of the crunch of proposal writing. The following three administrative steps are necessary if you are planning to apply for federal grants:

Step 1: Obtain a DUNS (Data Universal Numbering System) number from Dun & Bradstreet.⁴⁹

Step 2: Register your organization on-line to do business with the U.S. government in the System for Award Management (SAM).⁵⁰ You will need your DUNS number and tax identification number (TIN) or employment identification number (EIN) to register.



Quick Tip: If your organization does not have a TIN or EIN, don't wait until you find a grant opportunity to apply for one. It can take many weeks for the Internal Revenue Service (IRS) to process these requests. For up-to-date time estimates, go to IRS.gov.



Note: If you are a new organization registering to do business with the federal government, your registration in the SAM system will not be activated until you submit a notarized letter stating you are the authorized administrator for your organization. Be sure to check with your governing body to make sure you should be listing your agency as the authorized entity and not the governing body.

If you have a CAGE (Commercial And Government Entity) Code when registering in the SAM system, you will enter it as part of the registration process. If you do not have a CAGE code, complete the SAM registration without it. The SAM system will process the assignment of the code for you and it will be applied to your registration.⁵¹

Step 3: Register for an account in the Grants.gov system so that you will be set up to submit grant applications.⁵²

⁴⁹ See *Dun & Bradstreet D-U-N-S Number*, DUN & BRADSTREET, <https://www.dnb.com/duns-number.html>.

⁵⁰ See *System for Award Management*, U.S. GENERAL SERVS. ADMIN., <https://www.sam.gov/SAM>.

⁵¹ For more information, see *Federal Service Desk*, U.S. GENERAL SERVS. ADMIN., <https://www.fsd.gov>.

⁵² For step-by-step instructions, see *Grants.gov, Applicant Registration*, U.S. DEP'T OF HEALTH & HUMAN SERVS., <https://www.grants.gov/web/grants/applicants/registration.html>.



Quick Tip: Make sure you know how long it will take to get your registration in SAM activated to avoid missing a grant submission deadline. Check the SAM website for this information.



Quick Tip: Whether you are applying to a federal or non-federal entity, be prepared to submit your mission statement, your agency profile, the resumes of people you know will be working on the grant, and your agency budget with your proposal. These items are almost always required and can be time consuming to develop, so begin ahead of the application process.

The Grant Application

Funding opportunity announcements (FOA) or requests for proposal (RFP) announcements contain critical instructions for your grant application. The information required in applications to apply for federal and many other types of grants is generally the same. The format and level of detail required will differ, but generally, many funders want the same categories of information.



Note: Read and re-read the requirements for your application. Failure to be responsive to a mandatory section will be fatal to your grant request, regardless of how good your idea is or how much time you took preparing the application. Designate different staff members to review both the funding announcement instructions and your application with fresh eyes before you submit.



Quick Tip: Grant solicitations generally provide contact information for someone in the granting agency who can assist with answering questions. Check the funding agency's website or the grant announcement for these details.⁵³

Navigating a Federal Solicitation

At first glance, a solicitation for applications to receive federal funding to improve the criminal justice system can be daunting. Solicitations can run forty pages or more. Fortunately, they tend to follow a standard format that can be decoded more easily after reviewing a few. It helps to know how to scan a solicitation to determine its appropriateness for you to pursue.

Typically, federal grant solicitations will set out these categories of information:

- **Eligibility:** This section lists the types of entities that may apply for an award and it is necessary that your agency fit within one of those types. This is one of the first things you should check. If you are not an eligible entity, you need not apply. Note, however, that if you are working with another agency that does fit the eligibility requirement, that agency can serve as the applicant.

⁵³ For federal grants, technical assistance is available at the Customer Support Hotline at 800-518-4726, 606-545-5035, or at <https://www.grants.gov/web/grants/support.html>, or at support@grants.gov.

- **Deadline:** The deadline for submission of the application, except in extremely rare instances, is an absolute deadline. Failure to file timely will disqualify the application.
- **Type of Award, Amount, and Term:** Typically federal awards defender agencies seek are grants, but another type of award is a cooperative agreement. Slightly different administrative rules apply to the different types of awards. The amount of award available is critical to know: you may request funds up to the total available amount. The term of the award will typically be twelve, twenty-four, or thirty-six months.
- **Program Description:** This section describes the general nature of programs and projects that the grant is intended to support. The more directly your project description relates to the grantor's purpose, the more likely it is to receive an award. If your proposed project does not fit, you would be better off looking for funding elsewhere.
- **Financial Management and Internal Controls:** You will need to demonstrate that your agency has the ability to administer the financial side of the grant with appropriate internal controls to ensure proper financial management.
- **Application Submission Information:** This sets out in detail what materials must be included as part of the application. Take time to review this section carefully.
- **Application Review Criteria:** This section sets out the weighting mechanism used to evaluate applications. Different percentages, or weights, are assigned, typically to your application's 1) statement of the problem, 2) project design and implementation, 3) team capabilities and competency, 4) plan for supplying requested performance data, and 5) budget. The project design and implementation and the capabilities and competency categories typically receive far higher weights than the other categories.
- **Application Checklist:** This item, typically included as an Appendix to the solicitation, is a very handy tool. Once you have committed to submitting an application, refer to this checklist regularly throughout your application preparation process.



Making the case for funding public defense

Regardless of whether you are looking for government or private sources of support, it is important to understand that public defense is not widely understood or robustly supported. You can change that equation by providing information about how your work impacts the community, creates pathways to system cost savings, and improves public safety. Explaining how poverty, homelessness, mental illness and drug addiction drive people into the criminal justice system can be vital information for funders who can then see how their dollars can support the needs of underserved people who need connections to services, along with promoting community health and opportunity. Explain how your organization is a conduit for ensuring that happens.



Quick Tip: For help in framing your message about the value of public defense NLADA has a messaging toolkit.⁵⁴



Note: It can be easy to focus on preparing one aspect of an application, typically the project narrative, without giving adequate attention to the other required components.⁵⁵ The following considerations address areas that should not be overlooked.

- **Project Timeline:** This is a chronological order of the work activities and identification of who will be performing the work. Check the grant announcement for any specific instructions and be sure to follow any details requested such as milestones, monthly or quarterly details, or plans for measuring success. Allow realistic time estimates about how long it will take to make procurements or add new positions and hiring, given your agency's normal processes. Also, if your project involves research using human subjects, federal human subject protections require the approval of an Institutional Review Board (IRB). You or your research partner will need access to an IRB. The process can be extremely time-consuming, so make sure you allow adequate time in your timeline to get IRB approval.
- **Sustainability:** Typically grantors expect that you will use the grant as seed money with a view to transferring to other funding at the end of the grant. Grantors are generally averse to funding a project that will die upon the expiration of grant funding.
- **Budget:** This section typically requires two levels of budget information:
 - First, you will need to provide budget details for each category of expenditures. The categories typically include:
 - Personnel
 - Fringe Benefits
 - Travel
 - Equipment
 - Supplies
 - Consultants/Contracts
 - Other Costs
 - Indirect Costs
 - Second, you will need to provide a budget narrative that explains why and how you will apply the dollars to the work activities. If applying for a federal grant, the Grants.gov website provides additional insights.⁵⁶

⁵⁴ See NAT'L LEGAL AID & DEFENDER ASS'N, RETHINKING JAILS, REFRAMING PUBLIC DEFENSE: MAKING THE CASE FOR THE SYSTEM-WIDE BENEFITS OF EFFECTIVE DEFENDERS (2016), *available at* <http://www.nlada.org/safety-justice-toolkit>.

⁵⁵ Reviewing grant proposals for prior awards can provide valuable insights on what to include in a project narrative. Running an internet search such as "How to write a grant narrative" will generate access to voluminous resources to help.

⁵⁶ See *Grant Writing: How to Build Credibility with Your Budget Narrative*, GRANTS.GOV (July 9, 2019), <https://blog.grants.gov/2019/07/09/grant-writing-how-to-build-credibility-with-your-budget-narrative>.



Quick Tip: Developing a competitive budget that provides you with enough dollars to realistically support the work is key. Some critical things to know:

- Estimating personnel costs for new projects can be challenging. Consider the length of the grant award and how many hours or days per week each team member will be working on the grant. For example, if your designated project manager will spend three days of a five day workweek on the grant, they will be billing 60% of their salary to the grant.
 - Do not ask for what the funder does not allow. Some grants will not fund new personnel. Check the FOA or RFP!
 - **Consultants and contractors** are generally used when particular skills or subject matter expertise is needed for the project. Be sure to consider whether you need them to travel, whether you are required to get competitive bids for the work, and what the maximum approved rate of pay will be so that you can budget for these variables and stay in compliance with grantor regulations if you are awarded the grant.
 - **Indirect costs** are charges for things like the time administrative staff will spend supporting the grant. If you do not have a negotiated indirect cost rate (ICR) with the funding agency, the federal **government allows** applicants to use a de minimis cost rate (a default minimum rate). Be sure to check the currently approved rate with the funding agency.
 - **Be sure that your budget and your project narrative match.** Review what work activities you have proposed and double check to make sure you covered everything in your budget.
 - Some federal grants require that a certain percentage of the projects cost come from your agency's normal funding. This is referred to as "**match.**" Find out if the grant does have a match requirement and develop a realistic plan to fund that from your agency's budget.
- **Document Formatting:** Heed the solicitation's allowable font size and page limits of the various application components. Some components, such as the project narrative and abstract, must follow specific formatting guidelines, while others, such as project timeline or budget, may not be as restrictive. Non-compliant formatting can result in disqualification.
 - **Project Abstract or Project Narrative:** Usually the last thing you prepare, if done well, a succinct project abstract can make your proposal stand out. Abstracts are typically limited to 400 words or less.
 - **Letters of Support:** When including these, strategically select who you will ask for support. Your governing authority, partners on the grant, key community leaders, and other stakeholder agencies can all convey local buy-in and project feasibility.



Note: Online submissions are generally required by most funding agencies. If you wait until the deadline date to submit, you risk technical difficulties that you may not be able to

resolve before the deadline. Plan to submit at least twenty-four hours in advance of the grantor's deadline.

Completing Your Application

Who?

At this stage, the next task is to identify who will write the grant application – or better yet, who will be responsible for managing a team of staff members who will all contribute to the effort. Is there someone on your staff who has had experience in applying for grants? If that person has had experience managing a grant, they will have valuable insight into matters which need to be considered in the application.

If no staff member possesses the necessary skills to write a grant application, help is available. If you are partnering on the grant, you can ask the partner if they have a staff member that can take the responsibility. Research organizations and educational institutions typically have a great deal of experience in writing grant applications. Finally, if agency staff is not available, you can consider hiring a professional grant writer. An online search will give you more than a few options.

When?

Time is also an important consideration. The window between announcement of the grant solicitation and the due date for the application is limited. The preparation and the submission of a grant application is a time-consuming process and allowances need to be made to work that extra burden into the agency's workload. Does the individual have the time available to complete the application while managing a normal workload, or will it be necessary to transfer some of that workload to someone else?

4. Managing Your Grant Award

You've planned your project, researched funding, and prepared and submitted your application, and you receive notification that you've been awarded a grant. Congratulations! Now the work begins of launching a successful project that will lead to great outcomes, and hopefully cultivate new grant resources in the future. This section contains some important information for managing federal grants.

Procurements

The federal government expects grantees to take advantage of marketplace competition in obtaining goods and services for the grant. So as a general rule, any needed procurements should be done competitively. You may need to issue a request for proposals (RFP) in order to meet competition requirements. In some instances, where a vendor is unique in its ability to supply the goods or services, it may be permissible to do a "sole source" procurement.

? Ask Yourself: If your project requires procurements—for example, you need to contract with a report designer or research organization—does your agency's procurement process create substantial delay? Is a competitive bid process required, and how long would that take?

Certifications

As part of the process for receiving a grant, the grantee must execute certain certifications. Examples include a certification that the grantee is not debarred from receiving grants, or that grant funds will not be used for lobbying purposes.

Reporting

Grant awards come with requirements to periodically report how the funding is spent and what progress is being made in the substantive work of the project. Financial reports are typically due every quarter. Performance or progress reports are generally due every six months. The award will specify particular reporting timelines and requirements.

! Note: Failure to comply with reporting deadlines can freeze your grant funding.

Publishing Documents or Reports

If you have to create a document, report, training agenda, or other deliverable as part of your federal grantwork, you will need to include language on the item stating that the project was supported by a federal grant, along with a disclaimer. An example of language used by the National Legal Aid & Defender Association and the National Criminal Justice Association for a Bureau of Justice Assistance grant is reproduced below:

This project was supported by grant number 2015-AJ-BX-K043 awarded to the National Legal Aid and Defender Association by the Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice. Points of view or opinions contained within this document are those of the authors and do not necessarily represent the official position or policies of the Bureau of Justice Assistance, Office of Justice Programs or Department of Justice or the National Legal Aid and Defender Association or the National Criminal Justice Association.

Supplanting

Federal grant funds are intended to supplement, not supplant, normal agency funding. For example, if an existing employee paid out of the agency's normal budget is transferred from his/her normal duties to grant-related activities and is then paid out of grant funds, and that employee's normal position remains vacant, supplanting has occurred because the agency has used the grant funds to take the place of (supplant) an existing position and saves the expenditure of the normal source of payment. If, however, the agency hires another individual to fill the now vacant position using agency hiring procedures and using agency funds (backfilling the position), the supplanting issue is averted.

Grant Payment Request System (GPRS)

OJP directs that grantees are to draw down grant funds only for reimbursements or immediate needs pursuant to the grant, i.e., expenses or payments that need to be made within ten days.

Grant Adjustment Notices (GANs)

During the course of a grant project, recipients may determine that: the scope of work they proposed in their grant application needs to change, the time it will take to complete the grant needs to be extended, and/or the approved budget for the work activities needs to be modified. If this happens, the recipient must submit a grant adjustment notice, which is essentially a request for modifications to the terms and conditions of the grant. While the submission of GANs are allowed, the federal grant-making agency may regulate how many can be submitted and may reserve the authority to allow or deny requests. For example, BJA limits how many GANs can be submitted and does reserve the authority to allow or deny these requests.

Hiring New Staff

If your grant involves hiring new project staff, you should plan ahead to mitigate delays in the hiring process that can arise at government agencies.

? **Ask Yourself:** Does your agency’s authorized headcount allow you to add additional staff? Do you need to create a new job description for a grant-funded position and how long does it take to get approval for the job description? How long will it take to post the position? How long a delay will there be from posting the position until a new hire is on board? Will there be union issues with the new position? One alternative is to consider hiring a contractor or consultant. By all means, check with your human resources department.

The preceding information addresses issues that commonly arise when working under a federal grant. Inevitably over the course of a two- or three-year grant, additional questions will emerge about administrative processes or requirements. Grant managers are assigned to each award, and you can always reach out directly to your grant manager. Another key resource to consult for questions about grants from U.S. Department of Justice agencies is the DOJ Grants Financial Guide.⁵⁷

⁵⁷ See U.S. DEP’T OF JUSTICE, DOJ GRANTS FINANCIAL GUIDE (2017), *available at* https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf.

Conclusion

Like anything else, the process of applying for grants, and managing them, gets easier the more you do it. Receipt of a federal grant or other supplemental funding can seed innovative, lasting initiatives at defender programs. Still, knowing upfront that you will have to devote a substantial amount of time to research funding opportunities, apply for them, and manage awards helps in planning to pursue this often exciting opportunity.

Both government and private industry grants present opportunities for defenders to assert the importance of indigent defense in criminal justice. These additional resources can help defenders accomplish important reforms, improve the quality of their representation and services, and exemplify best practices for ensuring the right to effective counsel and access to justice. The hope of the National Legal Aid & Defender Association and the National Criminal Justice Association is that this guide will assist with accessing those opportunities.

Appendix A: Grants.gov Grants Forecast Guide⁵⁸



What Is a Grant Forecast?

Posted on April 25, 2017 by Grants.gov

Sunny with a slight chance of competition? Cold and gloomy thanks to freezing funds?

While federal grant applicants may at times face such varying climates, the grant forecasts we refer to here are previews of potential funding opportunities that a grant-making agency plans to announce in the future.

Applicants can search for grant forecasts just as they would for funding opportunities – by using Grants.gov Search.

A screenshot of the Grants.gov website's search results page. The page title is "SEARCH GRANTS". On the left, there are search filters for "BASIC SEARCH CRITERIA" (Keywords, Opportunity Number, CFDA), "OPPORTUNITY STATUS" (Forecasted (104), Posted (2,205), Closed (2,186), Archived (38,014)), "FUNDING INSTRUMENT TYPE" (All Funding Instruments, Cooperative Agreement (62), Grant (42)), and "ELIGIBILITY". The main content area shows search results sorted by "Posted Date (Descending)". A table lists 104 matching results, with the first few rows visible. An orange arrow points to the "Forecasted" status in the table. Another orange arrow points to the "Forecasted (104)" option in the Opportunity Status filter. The table columns are Opportunity Number, Opportunity Title, Agency, Opportunity Status, Posted Date, and Close Date.

Opportunity Number	Opportunity Title	Agency	Opportunity Status	Posted Date	Close Date
HHS-2017-ACL-ACD-ILTA-0228	Centers for Independent Living Training and Technical Assistance Grant	HHS-ACL	Forecasted	04/05/2017	
HHS-2017-ACL-ACD-ISTA-0229	Statewide Independent Living Council Training and Technical Assistance Center	HHS-ACL	Forecasted	04/05/2017	
HHS-2017-ACL-CIP-LRLH-0230	FY2017 Lifespan Respite Care Program: Advancing State Lifespan Respite Systems	HHS-ACL	Forecasted	04/05/2017	
CDC-RFA-OT13-13020502SUPP17	Building Capacity of the Public Health System to Improve Population Health through National, Nonprofit Organizations, financed in part by 2017 Prevention and Public Health Funds	HHS-CDC-OSTLTS	Forecasted	03/29/2017	
CDC-RFA-PS18-1805	Privacy Data Sharing Tool to Support De-duplication of Cases in the National HIV Surveillance System (NHSS)	HHS-CDC-NCHHSTP	Forecasted	03/29/2017	
HHS-2017-ACL-CIP-MPRC-0225	Senior Medicare Patrol National Resource Center	HHS-ACL	Forecasted	03/27/2017	
HHS-2017-ACL-CIP-SATC-0224	2017 State Health Insurance Assistance Program	HHS-ACL	Forecasted	03/27/2017	

⁵⁸ Reproduced from: Grants.gov Community Blog, *What Is a Grant Forecast?*, U.S. DEP'T OF HEALTH & HUMAN SERVS. (Apr. 25, 2017), <https://blog.grants.gov/2017/04/25/what-is-a-grant-forecast>.

By checking “Forecasted” under Opportunity Status, searches can be tailored to turn up forecasted opportunities.

Opportunities are “forecasted” when funds are not yet formally available and are pending budgetary and discretionary spending approvals and federal agency program decisions.

Grants.gov encourages agencies to publish their forecasts in Search; however, applicants may also find forecasted opportunities listed on the grant-making agency’s website.

For example, the Department of Education has posted its Fiscal Year 2017 forecasts here.⁵⁹ The Department of Education explains that the listing is “advisory only and is not an official application notice of the Department of Education. ...Please keep in mind that the dates recorded in this document are SUBJECT TO CHANGE and that the average size/number of awards are ESTIMATES.”

To learn more about accessing forecasts published on Grants.gov, watch this video.⁶⁰

⁵⁹ *Forecast of Funding Opportunities Under the Department of Education Discretionary Grant Programs for Fiscal Year (FY) 2019*, U.S. DEP’T OF EDUC. (Aug. 15, 2019), <https://www2.ed.gov/fund/grant/find/edlite-forecast.html>.

⁶⁰ Grants.gov Community Blog, *Video: How to Locate Federal Grant Forecasts on Grants.gov*, U.S. DEP’T OF HEALTH & HUMAN SERVS. (Sep. 28, 2016), <https://blog.grants.gov/2016/09/28/video-how-to-locate-federal-grant-forecasts-on-grants-gov>.

Appendix B: Sources of Federal Civil Legal Aid Funding



Comparison of Major Sources of Federal Funding

Grant	FY 2016 Funding	FY 2017 Funding	FY 2018 Funding	FY 19 President	FY 19 Funding
Housing					
Continuum of Care	\$1.824 billion	\$2.018 billion	\$2.106 billion	\$2.4 billion	\$2.636 billion ¹
Emergency Solutions Grant Program	\$285 million	\$310 million	\$270 million	\$255 million	\$280 million
Fair Housing Initiatives Program ²	\$40 million	\$39 million	\$39 million	\$36.2 million	\$39 million
Medical-Legal Partnership with Community Health Centers					
HRSA Section 330 funding for Community Health Centers ³	\$1.492 billion	\$1.489 billion	\$1.626 billion		\$1.63 billion
Veterans					
Grant Per Diem (GPD)	\$206 million	\$257 million	*not appropriated	\$257 million	*not appropriated
HUD-VASH (case management)	\$462 million	\$498 million	*not appropriated	\$550 million	*not appropriated
Supportive Services for Veterans Families (SSVF)	\$297 million	\$320 million	\$343.71 million awarded ⁴	\$320 million	\$380 million
Reentry / Reintegration					
Department of Justice Second Chance Act	\$68 million	\$68 million	\$85 million	\$48 million	\$87.5 million

¹ Up to \$50 million for rapid rehousing and supportive services.

² This number is inclusive of both Education and Outreach, and Enforcement funds (HUD's internal allocations determine how much goes toward which).

³ This is the funding from which community health centers use to fund "enabling services," which includes legal services through the practice of medical-legal partnership. NLADA works closely with the National Association of Community Health Centers and the National Center for Medical-Legal Partnership to represent the interests of civil legal aid.

⁴ SSVF has awarded its grants for FY 2018.



Comparison of Major Sources of Federal Funding

HUD Jobs-Plus					\$15 million
Department of Labor WIOA / Second Chance Act	\$77 million	\$88 million	\$93.08 million	\$78.324 million	\$93.08 million
Victims of Crime, DV and Human Trafficking					
<i>Office for Victims of Crime⁵</i>					
Total from Crime Victims Fund	\$3.042 billion	\$2.573 billion	\$4.436 billion	\$2.3 billion	\$3.353 billion
Used for VAWA and other programs	\$389 million ⁶	\$336 million ⁷	\$635 million ⁸	\$635.5 million ⁹	\$675.15 million ¹⁰
Victim Assistance Formula	\$2.252 billion	\$1.84 billion	~\$3.285 billion ¹¹	~\$1.26 billion ¹²	~\$2.5 billion ¹³
Vision 21	\$50 million	*not appropriated	*not appropriated	\$25 million	*not appropriated
<i>Office on Violence Against Women¹⁴</i>					
Justice for Families	\$16 million	\$16 million	\$16 million	\$16 million	\$16 million
Legal Assistance to Victims (LAV)	\$45 million	\$45 million	\$45 million	\$45 million	\$45 million
STOP Formula Grants	\$215 million	\$215 million	\$215 million	\$215 million	\$215 million
<i>Human Trafficking</i>					
Victims of Trafficking Program (DOJ OJP)	\$45 million	\$45 million	\$77 million ¹⁵	\$45 million	\$85 million

⁵ There has been a continuing trend of using Crime Victims Fund (CVF) dollars to subsidize VAWA and other programs. The FY 2018 appropriation and the FY 2019 request fully fund VAWA programs from the CVF exclusively.

⁶ \$379 million to Office on Violence Against Women; \$10 million to Office of Inspector General (OIG).

⁷ \$326 million to OVW; \$10 million to OIG.

⁸ \$492 million to OVW; \$10 million to OIG; \$133 million for tribal grants.

⁹ \$485.5 million to OVW; \$10 million to OIG; \$115 million for tribal grants; \$25 million for Vision 21.

¹⁰ \$497.5 million to OVW; \$10 million to OIG; \$167.65 million (5%) for tribal grants.

¹¹ This is a 78 percent increase over 2017.

¹² This would be a 32 percent reduction from 2017.

¹³ While this is a decrease from recent years, it is similar to FY 2015 levels, which saw a tripling of funding from years past.

¹⁴ The entirety of the 2018 and 2019 appropriations derive from the Crime Victims Fund.

¹⁵ This is derived from the Crime Victims Fund.



Comparison of Major Sources of Federal Funding

Block Grants¹⁶					
Community Development Block Grants	\$3 billion	\$3 billion	\$3.3 billion	\$0	\$3.3 billion
Community Services Block Grants	\$715 million	\$715 million	\$742.883 million	\$0	\$753 million
Social Services Block Grants	\$1.584 billion	\$1.584 billion	\$1.7 billion	\$0	\$1.7 billion

Grants to Address the Opioid Epidemic			
Grant	FY 2017 Funding	FY 2018 Funding	FY 2019 Funding
Opioid State Targeted Response Grants (SAMHSA)	\$500 million	\$1 billion ¹⁷	\$1.5 billion ¹⁸
Substance Abuse Prevention and Treatment Block Grants (SAMHSA)	\$1.9 billion	\$1.9 billion	\$1.9 billion
Rural Communities Opioid Response Program (HRSA)	New in 2018	\$130 million	\$120 million

Older Americans Act Funding			
Grant	FY 2017 Funding	FY 2018 Funding	FY 2019 Funding
Long-Term Care Ombudsman Program	\$16,280,630	\$16,621,101	\$16,961,573
Elder Abuse, Neglect, and Exploitation Prevention Program and Legal Assistance Development Program	\$4,891,876	\$4,994,178	\$5,096,480

¹⁶ While the administration is requesting elimination of these block grants, these programs have tremendous value to states and municipalities. Over the past two funding cycles, we have seen Congress refuse to significantly cut funding.

¹⁷ No state receives less than \$4 million and a supplement in September 2018 of \$1 million to three hardest hit areas (\$333,00 each)

¹⁸ \$50 million of this is for Indian Tribes or tribal organizations; 15 percent of the remainder is targeted to the states with the highest mortality rate related to opioid use disorders. No state receives less than \$4 million.





1901 Pennsylvania Ave. NW, Suite 500
Washington, DC 20006