

Department of Justice

§91.3

of not more than six-months confinement (not including time in confinement prior to assignment to the boot camp) involving:

(1) Assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time for a violent felony;

(2) Adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) Participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) Post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(i) *Truth in sentencing laws* means laws that:

(1) Ensure that violent offenders serve a substantial portion of sentences imposed;

(2) Are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders; and

(3) The prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

§91.3 General eligibility requirements.

(a) Recipients must be individual states, or states organized as multi-state compacts.

(b) *Application requirements.* To be eligible to receive either a formula or a discretionary grant under subtitle A, an applicant must submit an application which includes:

(1) Assurances that the state(s) have implemented, or will implement, correctional policies and programs, including truth in sentencing laws. No specific requirements for complying with this condition are prescribed by this interim rule for fiscal 1995 funding because of the need for further review of the status of truth in sentencing laws and the impact and needs requirements relating to reform in state systems.

(2) Assurances that the state(s) have implemented or will implement poli-

cies that provide for the recognition of the rights and needs of crime victims. States are not required to adopt any specific set of victims rights measures for compliance, but the adoption by a state of measures which are comparable to or exceed those applied in federal proceedings will be deemed sufficient compliance for eligibility for funding. If the state has not adopted victims rights measures which are comparable to or exceed federal law, the adequacy of compliance will be determined on a case-by-case basis. States will be afforded a reasonable amount of time to achieve compliance. States may comply with this condition by providing recognition of the rights and needs of crime victims in the following areas:

(i) Providing notice to victims concerning case and offender status;

(ii) Providing an opportunity for victims to be present at public court proceedings in their cases;

(iii) Providing victims the opportunity to be heard at sentencing and parole hearings;

(iv) Providing for restitution to victims; and

(v) Establishing administrative or other mechanisms to effectuate these rights.

(3) Assurances that funds received under this section will be used to construct, develop, expand, operate or improve correctional facilities to ensure that secure space is available for the confinement of violent offenders.

(4) Assurances that the state(s) has a comprehensive correctional plan in accordance with the definition elements in §91.2. If the state(s) does not have an adequate comprehensive correctional plan, technical assistance will be available for compliance. States will be afforded a reasonable amount of time to develop their plans.

(5) Assurances that the state(s) has involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders and that the state(s) will share funds received with counties and other units of local government, taking into account the burden placed

§91.4

28 CFR Ch. I (7-1-14 Edition)

on these units of government when they are required to confine sentenced prisoners because of overcrowding in state prison facilities.

(6) Assurances that funds received under this section will be used to supplement, not supplant, other federal, state, and local funds.

(7) Assurances that the state(s) has implemented, or will implement within 18 months after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994), policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

(8) Assurances that correctional facilities will be made accessible to persons conducting investigations under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. 1997.

(9) If applicable, documentation of the multi-state compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

(10) If applicable, a description of the eligibility criteria for participation in any boot camp that is to be funded.

(c) States, and states organized as multi-state compacts, which can demonstrate affirmative responses to the assurances outlined above will be eligible to receive funds.

(d) Each state application for such funds must be accompanied by a comprehensive correctional plan. The plan shall be developed in consultation with representatives of appropriate state and local units of government, shall include both the adult and juvenile correctional systems, and shall provide an assessment of the state and local correctional needs, and a long-range implementation strategy for addressing those needs.

(e) Local units of government, i.e., any city, county, town, township, borough, parish, village or other general purpose subdivision of a state, or Indian tribe which performs law enforcement functions as determined by the secretary of the Interior, are in turn eligible to receive subgrants from a participating state(s). Such subgrants shall be made for the purpose(s) of car-

rying out the implementation strategy, consistent with state(s) comprehensive correctional plan.

(f) In awarding grants, consideration shall be given to the special burden placed on states which incarcerate a substantial number of inmates who are in the United States illegally. States will not be required to submit additional information on numbers of criminal aliens. The Bureau of Justice Assistance (BJA) and the Immigration and Naturalization Service (INS) are currently working together to implement the State Criminal Alien Assistance Program (SCAAP) to assist the states with the costs of incarcerating criminal aliens. The Office of Justice Programs will coordinate with the SCAAP program to obtain the relevant information.

(g) The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

[59 FR 63019, Dec. 7, 1994, as amended by Order No. 2703-2004, 69 FR 2841, Jan. 21, 2004]

§91.4 Truth in Sentencing Incentive Grants.

(a) Half of the total amount of funds appropriated to carry out subtitle A for each of the fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Truth in Sentencing Incentive Grants.

(b) *Eligibility.* To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of §91.3 and must demonstrate that the state(s)—

(1) Has in effect laws which require that persons convicted of violent crimes serve not less than 85% of the sentence imposed; or

(2) Since 1993—

(i) Has increased the percentage of convicted violent offenders sentenced to prison;

(ii) Has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(iii) Has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(iv) Has in effect at the time of application laws requiring that a person