participating agency inspection and audit in such a manner so as to protect the confidentiality and sensitivity of participating agency intelligence records.

(o) The Attorney General or designee may waive, in whole or in part, the applicability of a particular requirement or requirements contained in this part with respect to a criminal intelligence system, or for a class of submitters or users of such system, upon a clear and convincing showing that such waiver would enhance the collection, maintenance or dissemination of information in the criminal intelligence system, while ensuring that such system would not be utilized in violation of the privacy and constitutional rights of individuals or any applicable state or federal law.

§ 23.30 Funding guidelines.

The following funding guidelines shall apply to all Crime Control Act funded discretionary assistance awards and Bureau of Justice Assistance (BJA) formula grant program subgrants, a purpose of which is to support the operation of an intelligence system. Intelligence systems shall only be funded where a grantee/subgrantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(a) The proposed collection and exchange of criminal intelligence information has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(b) The areas of criminal activity for which intelligence information is to be utilized represent a significant and recognized threat to the population and:

(1) Are either undertaken for the purpose of seeking illegal power or profits or pose a threat to the life and property of citizens; and

(2) Involve a significant degree of permanent criminal organization; or

(3) Are not limited to one jurisdiction.

(c) The head of a government agency or an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency will retain control and supervision of information collection and dissemination for the criminal intelligence system. This official shall certify in writing that he or she takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the principles set forth in §23.20.

(d)(1) Where the system is an interjurisdictional criminal intelligence system, the governmental agency which exercises control and supervision over the operation of the system shall require that the head of that agency or an individual with general policy-making authority who has been expressly delegated such control and supervision by the head of the agency:

(i) Assume official responsibility and accountability for actions taken in the name of the joint entity, and

(ii) Certify in writing that the official takes full responsibility and will be accountable for insuring that the information transmitted to the interjurisdictional system or to participating agencies will be in compliance with the principles set forth in §23.20.

(2) The principles set forth in §23.20 shall be made part of the by-laws or operating procedures for that system. Each participating agency, as a condition of participation, must accept in writing those principles which govern the submission, maintenance and dissemination of information included as part of the interjurisdictional system.

(e) Intelligence information will be collected, maintained and disseminated primarily for State and local law enforcement efforts, including efforts involving Federal participation.

§ 23.40 Monitoring and auditing of grants for the funding of intelligence systems.

(a) Awards for the funding of intelligence systems will receive specialized monitoring and audit in accordance with a plan designed to insure compliance with operating principles as set forth in §23.20. The plan shall be approved prior to award of funds.
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(b) All such awards shall be subject to a special condition requiring compliance with the principles set forth in §23.20.

c) An annual notice will be published by OJP which will indicate the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR part 23 Criminal Intelligence Systems Policies.

PART 24—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

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AUTHORITY: 5 U.S.C. 504(c)(1).

SOURCE: Order No. 975–82, 47 FR 15776, Apr. 13, 1982, unless otherwise noted.

Subpart A—General Provisions

§ 24.101 Purpose of these rules.

These rules are adopted by the Department of Justice pursuant to section 504 of title 5, U.S. Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Public Law No. 96–481. Under the Act, an eligible party may receive an award for attorney fees and other expenses when it prevails over the Department in an adversary adjudication under 5 U.S.C. 554 before the Department, unless the Department’s position as a party to the proceeding was substantially justified or special circumstances make an award unjust. The purpose of these rules is to establish procedures for the submission and consideration of applications for awards against the Department.

§ 24.102 Definitions.

As used in this part:


(b) Adversary adjudication means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or reviewing a license.

(c) Adjudicative officer means the official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

(d) Department refers to the relevant departmental component which is conducting the adversary adjudication (e.g., Drug Enforcement Administration or Office of Justice Assistance, Research, and Statistics).

(e) Proceeding means an adversary adjudication as defined in §24.102(b) above.

§ 24.103 Proceedings covered.

(a) These rules apply to adversary adjudications required by statute to be conducted by the Department under 5 U.S.C. 554. Specifically, the proceedings conducted by the Department to which these rules apply are:

1. Hearings conducted by the Drug Enforcement Administration (DEA) in connection with suspension or revocation of registration of manufacturers, distributors, and dispensers of controlled substances under 21 U.S.C. 824(c) and 21 CFR 1301.51; suspension or