

Department of Justice

§91.2

91.68 Compliance with other federal environmental statutes, regulations and executive orders.

AUTHORITY: 42 U.S.C. 13701 through 14223.

SOURCE: 59 FR 63019, Dec. 7, 1994, unless otherwise noted.

Subpart A—General

§91.1 Purpose.

The Attorney General, through the Assistant Attorney General for the Office of Justice Programs, will make grants to states and to states organized as multi-state compacts to construct, develop, expand, operate or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional space for the confinement of violent offenders, to:

- (a) Ensure that prison space is available for the confinement of violent offenders; and
- (b) Implement truth in sentencing laws for sentencing violent offenders.

§91.2 Definitions.

(a) *Violent offender*. [Reserved]

(b) *Serious drug offense* means an offense involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of 10 years or more is prescribed by state law.

(c) *Part 1 violent crimes* means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports. If such data is unavailable, Bureau of Justice Statistics (BJS) publications may be utilized. See, e.g., "Census of State and Federal Correctional Facilities, 1990." ("Part 1 violent crimes" are defined here solely as the statutorily prescribed basis for the formula allocation of funding.)

(d) *Recipient* means individual states or multi-state compacts awarded funds under this part.

(e) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

(f) *Comprehensive correctional plan* means a plan which represents an integrated approach to the management and operation of adult and juvenile correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates.

(g) *Correctional facilities* includes boot camps and other alternative correctional facilities for adults or juveniles that can free conventional bed space for the confinement of violent offenders.

(h) *Boot camp* means a corrections program for adult or juvenile offenders 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

§91.3

28 CFR Ch. I (7-1-21 Edition)

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 policies 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 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