

tation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 14163(e)(1)(C) of this title, a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this part shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this part; and

(ii) allocated in accordance with section 14163e(b) of this title.

(Pub. L. 108–405, title IV, § 423, Oct. 30, 2004, 118 Stat. 2288.)

#### CODIFICATION

Section was enacted as part of the Innocence Protection Act 2004 and also as part of the Justice for All Act of 2004, and not as part of Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

### § 14163c. State reports

#### (a) In general

Each State receiving funds under this part shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

#### (b) Capital representation improvement grants

With respect to the funds provided under section 14163 of this title, a report under subsection (a) of this section shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 14163(e)(1)(A) of this title, an entity described in section 14163(e)(1)(B) of this title, or a selection committee or similar entity described in section 14163(e)(1)(C) of this title; and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 14163(e)(1)(C) of this title, to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 14163(e)(2)(A) of this title;

(ii) establish and maintain a roster of qualified attorneys in accordance with section 14163(e)(2)(B) of this title;

(iii) assign attorneys from the roster in accordance with section 14163(e)(2)(C) of this title;

(iv) conduct, sponsor, or approve specialized training programs for attorneys rep-

resenting defendants in capital cases in accordance with section 14163(e)(2)(D) of this title;

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 14163(e)(2)(E) of this title; and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 14163(e)(2)(F) of this title, including a statement setting forth—

(I) if the State employs a public defender program under section 14163(e)(1)(A) of this title, the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 14163(e)(1)(B) of this title, the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 14163(e)(1)(C) of this title, an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

#### (c) Capital prosecution improvement grants

With respect to the funds provided under section 14163a of this title, a report under subsection (a) of this section shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 14163a(b)(1)(A) of this title;

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 14163a(b)(1)(B) of this title;

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 14163a(b)(1)(C) of this title;

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 14163a(b)(1)(D) of this title;

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 14163a(b)(1)(E) of this title; and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

**(d) Public disclosure of annual State reports**

The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

(Pub. L. 108-405, title IV, §424, Oct. 30, 2004, 118 Stat. 2289.)

CODIFICATION

Section was enacted as part of the Innocence Protection Act 2004 and also as part of the Justice for All Act of 2004, and not as part of Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

**§ 14163d. Evaluations by Inspector General and administrative remedies**

**(a) Evaluation by Inspector General**

**(1) In general**

As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this part, the Inspector General of the Department of Justice (in this section referred to as the “Inspector General”) shall—

(A) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations to the Attorney General for corrective action.

**(2) Priority**

In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of non-compliance.

**(3) Determination for statutory procedure States**

For each State that employs a statutory procedure described in section 14163(e)(1)(C) of this title, the Inspector General shall submit to the Committee on the Judiciary of the

House of Representatives and the Committee on the Judiciary of the Senate, not later than the end of the first fiscal year for which such State receives funds, a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

**(4) Comments from public**

The Inspector General shall receive and consider comments from any member of the public regarding any State’s compliance with the terms and conditions of a grant made under this part. To facilitate the receipt of such comments, the Inspector General shall maintain on its website a form that any member of the public may submit, either electronically or otherwise, providing comments. The Inspector General shall give appropriate consideration to all such public comments in reviewing reports submitted under section 14163c of this title or in establishing the priority for conducting evaluations under this section.

**(b) Administrative review**

**(1) Comment**

Upon the submission of a report under subsection (a)(1) of this section or a determination under subsection (a)(3) of this section, the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

**(2) Corrective action plan**

If the Attorney General, after reviewing a report under subsection (a)(1) of this section or a determination under subsection (a)(3) of this section, determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) of this section or the determination under subsection (a)(3) of this section, the Attorney General shall, within 30 days, issue guidance to the State regarding corrective action to bring the State into compliance.

**(3) Report to Congress**

Not later than 90 days after the earlier of the implementation of a corrective action plan or the issuance of guidance under paragraph (2), the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

**(c) Penalties for noncompliance**

If the State fails to take the prescribed corrective action under subsection (b) of this section and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 14163 and 14163a of this title and require