

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

CODIFICATION

Section was formerly classified to section 14163b of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 60304. State reports

(a) In general

Each State receiving funds under this chapter 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 60301 of this title, a report under subsection (a) 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 60301(e)(1)(A) of this title, an entity described in section 60301(e)(1)(B) of this title, or a selection committee or similar entity described in section 60301(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 60301(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 60301(e)(2)(A) of this title;
- (ii) establish and maintain a roster of qualified attorneys in accordance with section 60301(e)(2)(B) of this title;
- (iii) assign attorneys from the roster in accordance with section 60301(e)(2)(C) of this title;
- (iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 60301(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 60301(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 60301(e)(2)(F) of this title, including a statement setting forth—

- (I) if the State employs a public defender program under section

60301(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 60301(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 60301(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 60302 of this title, a report under subsection (a) 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 60302(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 60302(b)(1)(B) of this title;

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 60302(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 60302(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 60302(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 formerly classified to section 14163c of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 60305. 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 chapter, 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 60301(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 chapter. 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 60304 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) or a determination under subsection (a)(3), 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) or a determination under subsection (a)(3), 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) or the determination under subsection (a)(3), 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) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 60301 and 60302 of this title and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this chapter in another fiscal year.

(d) Periodic reports

During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) Administrative costs

Not less than 2.5 percent of the funds appropriated to carry out this chapter for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) Special rule for “statutory procedure” States not in substantial compliance with statutory procedures**(1) In general**

In the case of a State that employs a statutory procedure described in section