

Northern Border Prosecution Initiative Guidelines FY 2009

APPLICATION PROCESS

All Northern Border Prosecution Initiative (NBPI) applications must be submitted online at <http://www.ojp.usdoj.gov/nbpi>. Eligible county and state governments in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Vermont, Washington, and Wisconsin may apply for funds, in accordance with established reporting periods and funding availability.

NON-COMPETITIVE APPROVAL PROCESS

Applications are reviewed and approved on the basis of their adherence to program guidelines, and funding availability. Applicants will receive up to 100 percent of eligible case costs, based on the availability of funds. Should application amounts exceed available funding, applicants will receive funds on a uniform, pro-rata basis.

ELIGIBLE JURISDICTIONS

A county or state government in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Vermont, Washington, and Wisconsin may participate if it prosecuted and/or detained a defendant in a federally initiated and declined/referred criminal case that was disposed of during the applicable reporting period.

ELIGIBLE APPLICANTS

An applicant must be the Chief Executive Officer (CEO) or an authorized designee of any eligible jurisdiction in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Vermont, Washington, and Wisconsin. CEOs are the highest ranking administrative or elected official of a unit of general government, such as the Governor, President of the County Commissioners, or County Executive. Only employees, such as a Sheriff or County Prosecutor, of the applicant jurisdiction can serve as an authorized designee for NBPI.

APPLICANT COST PROFILE

An applicant must submit the following information in its NBPI profile for each quarter it is requesting reimbursement of NBPI funds:

- Detention Per Diem Rate: Publicized per diem rate of the jurisdiction jail facility. This figure is the per-day cost the jurisdiction would charge an outside jurisdiction to house inmates in its jails.
- Total Prosecutors on Staff: Prosecutors include employees whose primary responsibility is the prosecution of criminal cases.
- Total Salary for Prosecutors: This total must reflect the total salaries and wages paid to full- and part-time prosecutors who are assigned to prosecuting criminal cases. The reported sum should total the jurisdiction's actual salary expenditures for each reporting period, not an estimate or average. Prosecutor salary costs may include overtime required by negotiated contract, statute, or regulation such as union agreements, contractual obligations, and required post staffing minimums.

ELIGIBLE CASES

- Federally initiated criminal case.
- Declined/referred to a county or state jurisdiction after October 1, 2005.
- Prosecuted by a state or county prosecutor.
- Disposed of during a designated reporting period.
- Provided pre-trial detention.
- Each defendant represents a separate case; one case with multiple defendants should be claimed as separate cases.
- One defendant charged in multiple cases should be claimed as only one case to the extent the defendant's cases are being investigated and/or prosecuted during concurrent periods of time.

A case is eligible, regardless of:

- When the case was referred.
- The level, type, or number of criminal offenses involved.
- The defendant's age or citizenship status at the time of the federal referral.
- Whether the case was formally declined/referred by a U.S. Attorney, or declined/referred through a blanket federal declination-referral policy; accepted federal law enforcement practice; or federal prosecutorial discretion.
- Whether state or local law enforcement participated with federal authorities in the investigation or arrest (federal/state task forces).

INELIGIBLE CASES

- Federally referred case declined and not prosecuted by state or county prosecutors.
- Probation or parole violation or revocation hearings.¹
- Extradition cases.
- Cases not accepted by state or county prosecutors.

CASE REPORTING PERIOD

- October 1 through September 30, 2008

Cases are eligible for NBPI submission only during the reporting period in which the case was resolved.

FEDERALLY INITIATED CASES

A federally initiated case results from a criminal investigation or an arrest involving federal law enforcement authorities for a potential violation of federal criminal law, including task forces on which a federal agency or officer participates in the investigation or arrest process. Jurisdictions applying for NBPI funds must enter the referring federal agency on each case submitted for prosecution costs in the online application.

FEDERAL DECLINATION/REFERRAL

A federal declination/referral occurs when, during an investigation or following an arrest, a U.S. Attorney or a federal law enforcement official decides not to pursue federal criminal charges against a defendant (declination) and requests that a state or local jurisdiction prosecute the defendant for possible violation of state or local criminal statutes (referral).

Should a decision be made by a U.S. Attorney to subsequently pursue federal charges against a previously referred defendant, the time spent by the state or local jurisdiction in their prosecution and/or detention of the defendant on state criminal charges is eligible for NBPI funding.

CASE RESOLUTION

For NBPI purposes, case resolution refers to the time between a suspect's arrest and the resolution through dismissal, plea, conviction, or sentencing of the criminal charges through a county or state judicial or prosecutorial process. For defendants not physically arrested, alternative start dates are the date of indictment, date of the initial criminal summons, or date of the summons to appear.

CASE APPLICATION REQUIREMENTS

For each case submitted for NBPI funds, the jurisdiction must provide the following information:

- Docket or Case Number.
- Defendant's Last Name.
- Defendant's First Name.
- Defendant's Middle Initial, if known.
- Referring Federal Agency.
- Referred Date.

¹ A new charge(s) not independently prosecuted, but used as a basis for a probation or parole revocation hearing, is ineligible for reimbursement.

- Resolution.
- Resolved Date.
- Attorney Hours (fair and reasonable approximation of the actual hours worked on the case).

PRE-TRIAL DETENTION SERVICES

An eligible jurisdiction must have held the case defendant in a secure facility for 24 hours or more.

PROSECUTION AWARD CALCULATION

1. Total Prosecution Salaries divided by Total Prosecutors on Staff = Salary per Prosecutor
2. Salary per Prosecutor divided by 2080 (the number of working hours in a reporting period) = Prosecution Hourly Rate
3. Hourly Rate times Total Hours for Prosecution Cases = Total Prosecution Costs

DETENTION AWARD CALCULATION

Detention Per Diem Rate times Total Number of Detention Days = Total Detention Costs

FINAL APPLICATION VALUE

Total Prosecution Costs plus Total Detention Costs = Total Application Value

UNALLOWABLE COSTS

- Time spent by prosecutors on judicial appeals.²
- Incarceration time for sentenced offenders.

DOCUMENTATION

Documents supporting a federally initiated and declined/referred case must be retained for three years after the submission of the case for NBPI funds. Documents can include paper or electronic case files, e-mails from the U.S. Attorney's Office, case notes, or documentation of telephone or face-to-face meetings with U.S. Attorney's Office staff or federal law enforcement officials.

OTHER FEDERAL PROSECUTION AND PRE-TRIAL DETENTION FUNDING

Documentation must be maintained to support that NBPI funds, when combined with other federal prosecution and pre-trial detention funds, do not exceed 100 percent of the prosecution and detention costs for NBPI cases.

REQUEST ELECTRONIC PAYMENTS

Once the BJA review of awards is complete, NBPI participants will be notified to login to the NBPI system and request payment. Each jurisdiction will have 45 days to complete the certification and payment request. After 45 days, the funds may no longer be available.

USE OF REIMBURSED FUNDS

While reimbursements from NBPI federal payments may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law, using funds for the support and enhancement of additional prosecutorial and detention services is encouraged.

²Time spent by prosecutors on interlocutory appeals brought prior to trial, plea, or dismissal is allowable.