



# Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) Program

## Prohibited Expenditures Guidance

**AWARD CONDITION: “EXPENDITURES PROHIBITED WITHOUT WAIVER”**

### Overview

The JAG statute, at [34 U.S.C. § 10152](#), prohibits the use of JAG funds for certain items, and prohibits the use of JAG funds for other items unless BJA grants a waiver. This document provides lists, details, definitions, and procedures for prohibited expenditures and equipment under the BJA JAG Program for awards, consistent with [34 U.S.C. § 10152](#).

This Guidance supersedes all previous guidance relating to prohibited and controlled expenditures for open JAG awards. The award condition entitled “Compliance with Restrictions on the Use of Federal Funds: Prohibited and Controlled Equipment under OJP Awards” will no longer be implemented or enforced, as provided on OJP’s Legal Notices page (<https://www.ojp.gov/funding/explore/legal-notices>).

### Categories

- [Category A – Strictly Prohibited](#): The use of JAG funds for the purchase or transfer of any item listed in Category A is strictly prohibited and no waiver may be granted to utilize JAG funds for items listed in Category A.
- [Category B – Statutorily Prohibited without Waiver](#): The use of JAG funds for the purchase or transfer of items listed in Category B is prohibited unless Department of Justice first certifies in writing that extraordinary and exigent circumstances exist that make the use of JAG award funds to provide such matters essential to the maintenance of public safety and good order. See [Requesting a Certification Regarding Items in Category B – Statutorily Prohibited without Waiver](#) for instructions.

### Procedures

- [Requesting a Certification Regarding Items in Category B – Prohibited without Waiver](#)

## Categories

### **Category A – Strictly Prohibited**

The use of JAG funds for the purchase or transfer of any item listed in Category A is strictly prohibited. No waiver may be granted to utilize JAG funds for items listed in Category A.

- Any direct or indirect use of Byrne JAG award funds to provide any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

### **Category B – Statutorily Prohibited without Waiver**

The use of JAG funds for the purchase of items listed in Category B is prohibited unless the

Department of Justice first certifies in writing that extraordinary and exigent circumstances exist that make the use of JAG award funds to provide such matters essential to the maintenance of public safety and good order. See [Requesting a Certification Regarding Items in Category B – Statutorily Prohibited without Waiver](#) for instructions.

- Vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters).
- Luxury items
- Real estate
- Construction projects (other than penal or correctional institutions)
- Any similar matter

**“Vehicles”** includes, without limitation:

- Buses / recreational vehicles.
- Trucks, including pickup trucks.
- Vans, including passenger vans.
- Motorcycles.
- Sport utility vehicles (SUVs).
- Segways, golf carts, all-terrain vehicles (ATVs), utility task vehicles (UTVs) and similar items — when and if applicable state or local law requires licensing or registration of such items.

For purposes of Category B, **a vehicle is considered a “police cruiser” only if it is used in the ordinary course for routine police patrol within the United States. Vehicles (including motorcycles, SUVs, pickup trucks, ATVs, and UTVs) used as “police cruisers” are not prohibited under JAG, and therefore may be acquired with JAG funds in the ordinary course, to the extent otherwise allowable under the award.**

**“Vessels”** includes, without limitation:

- Any form of boat or watercraft capable of holding or transporting instruments, other cargo and/or at least one person.

For purposes of Category B, a “vessel” is considered a **“police boat”** only if it is used by the recipient jurisdiction (or subrecipient jurisdiction, as applicable) in the ordinary course to conduct law enforcement operations within the United States.

*Vessels used as “police boats” are not included on the Prohibited List, and therefore may be acquired with Byrne JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

**“Aircraft\*”** includes, without limitation:

- Any craft designed to move instruments, other cargo, and/or at least one person through the air, such as helicopters or airplanes (rotary-wing or fixed-wing aircraft).
- Unmanned Aerial System (UAS), Unmanned Aircraft (UA) and/or Unmanned Aerial Vehicle (UAV).

For purposes of Category B, a helicopter is considered a “**police helicopter**” only if it is used by the recipient jurisdiction (or subrecipient jurisdiction, as applicable) in the ordinary course to conduct law enforcement operations within the United States.

*\*Aircraft used as “police helicopters” are not included on the Prohibited List, and therefore may be acquired with Byrne JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

## **Procedures**

### **Requesting a Certification Regarding Items in Category B – Statutorily Prohibited without Waiver**

The recipient may **not** obligate (or “use”) any JAG award funds for the item until and unless the Department of Justice makes the required certification.

To request a Department of Justice certification the recipient must:

1. Using the JustGrants system (JustGrants) submit a “Programmatic Costs” Grant Award Modification (GAM), marked “Other” and with “JAG - Category B – Statutorily Prohibited without Waiver” typed in the available text box.
2. Attach to the GAM a letter, on the letterhead of the recipient jurisdiction and signed by the recipient’s “authorized representative” for the particular JAG award in question, that addresses the following elements:
  - a. The use of JAG award funds as to which the recipient requests the required certification and the award number of the JAG award from which funds would be obligated and used.
  - b. A general description of the recipient (or subrecipient, if applicable) that will use award funds for the requested purpose.
  - c. The amount of award funds that would be used for the requested purpose if the Department of Justice makes the required certification.
  - d. A detailed justification that provides sufficient information to support a Department of Justice finding and certification that “extraordinary and exigent circumstances” exist that make use of the JAG award funds for the requested purpose “essential to the maintenance of public safety and good order.”
3. For UAS/UAV purchases, attach a completed Unmanned Aircraft System Certification, which attests to compliance with requirements specific to UAS/UAV purchases. Additional information and the required certification form may be found here:  
<https://bja.ojp.gov/funding/uas>.

If the Department of Justice makes the required certification, the recipient will be notified and will receive a copy of the Department certification.