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February 11, 2003

Senator Ann O'Connell, Chairwoman
Senate Government Affairs Committee

RE: State Criminal Alien Assistance Program

I am submitting this information on behalf of the Washoe County Sheriff's Office.

On February 10, 2003, the Senate Standing Committee on Government Affairs heard testimony regarding Senate Bill 20. During that testimony, one witness referred to moneys received from the U. S. Department of Justice by various criminal justice agencies within the State of Nevada relating to the incarceration of alien prisoners.

I have attached information explaining the objectives and other elements of the program. This program has been instrumental in state and local criminal justice agencies to recover some of the costs of the incarceration of illegal aliens "convicted" of one felony or two misdemeanor offenses and to expedite the transfer of custody for certain deportable aliens.

The premise for these cost reimbursements is that had the alien been prevented from entering the United States illegally, they would not have been in a position to have committed the crimes for which they were convicted and, thus, would not have been incarcerated in the local jail or state prison.

The Washoe County Sheriff's Office has supported this project for several years and the citizens of Washoe County have benefited from the reimbursement for the costs incurred.

We are available for any questions you may have regarding this program.



Jim Nadeau
Legislative Advocate

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16.606 State Criminal Alien Assistance Program
(SCAAP)

FEDERAL AGENCY:

OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE,
DEPARTMENT OF JUSTICE

AUTHORIZATION:

Omnibus Appropriations Act, Public Law 106-113, Division B, Section 1000(a);
Immigration and Nationality Act, 8 U.S.C. 1252, Section 242 as Amended; Title II,
subtitle C, Section 20301; Violent Crime Control and Law Enforcement Act of 1994,
Public Law 103-322.

OBJECTIVES:

The State Criminal Alien Assistance Program (SCAAP) provides Federal
assistance to states and units of local government incurring costs of incarcerating
illegal aliens convicted of one felony or two misdemeanor offenses and to expedite
the transfer of custody for certain deportable aliens.

TYPES OF ASSISTANCE:

Direct Payments with Unrestricted Use.

USES AND USE RESTRICTIONS:

Funds are based on information regarding alien prisoner population; aliens housed
for a minimum of 72 consecutive hours. Funds need not be used for correctional
purposes or even criminal justice purposes, but may revert to the State or county
general fund. This is governed by state law or is at the option of the chief executive
officer of the applicant jurisdiction. All that BJA requires is the expeditious draw-
down of the payment funds, retention of records for the required audit period (3
years), and information necessary to allow the orderly closeout of the payment, if
requested by the grantor agency.

ELIGIBILITY REQUIREMENTS:

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Applicant Eligibility: States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands and localities or local jurisdictions exercising authority with respect to the incarceration of an undocumented criminal alien. This would cover state prison facilities (including those housing juveniles convicted as adults of felony offenses or two or more misdemeanors) and local jails, whether operated by counties or cities. Applicants are generally state's and units of local government. Note: Only one application is accepted from each separate political division (i.e., State, county, city).

Beneficiary Eligibility: States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands and localities or local jurisdictions.

APPLICATION AND AWARD PROCESS:

Preapplication Coordination: No formal preapplication coordination is required. While informal preapplication coordination is not required, it is encouraged that applicants coordinate with any facilities for which they have responsibility that provide overnight, secured lodging (i.e., incarceration) of undocumented criminal aliens. This program is eligible for coverage under E.O. 12372 "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the Single Point of Contact in their respective state for more information on what process the state may require of those applying for assistance.

Application Procedure: In fiscal year 2000, SCAAP application for payment process was modified and for the first time administered via the Office of Justice Programs Internet-based Grants Management System. Inmate data, including the proper inmate identifiers, could either be manually key-stroked into the on-line application system, or submitted on-line by electronically attaching the applicable portions of their inmate databases. For fiscal year 2001, the on-line application process began June 5 and ended July 19, 2001. Awards were announced after the end of the fiscal year since the INS inmate verification process is done separately and lasts 30 days or more. Technical assistance is available to applicants for preparation of the on-line application process by calling the OJP Grants Management System Hotline at 1-888-549-9901.

Award Procedure: The final payment process requires that all applications and all data be fully processed and verified before any payments are made. Inmate data will be verified by the Immigration Naturalization Service (INS). INS will attempt to match the inmate data records provided to records in its databases to obtain the maximum number of confirmed matches. These matches are expected to include three categories: 1) those positively identified (matched) as qualifying undocumented criminal aliens; 2) those who are positively identified (matched) as non-qualifying undocumented criminal aliens within the definitions applicable to SCAAP; and 3) those not positively identified relative to categories 1 or 2. Applicants will be given credit for a percentage of inmates whose eligibility cannot be determined through positive identification or "match," but have valid foreign countries of birth. Payments will be based on the verified number of aliens incarcerated by each applicant. Payments are granted by the Director of the Bureau of Justice Assistance, Office of Justice Programs, Department of Justice. The payment will be accepted on-line and the acceptance will effect a simultaneous

assurance of compliance with conditions. Acceptance of payment online initiates the automatic transfer of funds from OJP to the recipient.

Deadlines: Fiscal year 2001 application period closed July 20, 2001. Fiscal year 2001 payments are to begin by the end of the fiscal year. Fiscal year 2002 application period closed February 1, 2002. Fiscal year 2002 payments are to be made by March 31.

Range of Approval/Disapproval Time: Not applicable.

Appeals: Not applicable.

Renewals: If additional funding for the State Criminal Alien Assistance Program is allocated by Congress, applications can be submitted annually.

ASSISTANCE CONSIDERATIONS:

Formula and Matching Requirements: This program has no statutory formula. Payments are based on the verified number of aliens incarcerated by each applicant and cost considerations which are used to determine relative percentage of total funding each applicant is eligible to receive.

Length and Time Phasing of Assistance: Payments are made within 90 days of application if no data is being verified.

POST ASSISTANCE REQUIREMENTS:

Reports: No reports are required under this payment program.

Audits: Recipients who expend \$300,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report in accordance with OMB Circular No. A-133, as amended, and as stated in the on-line payment process. Receipt of SCAAP payments is considered in establishing the requirement for an audit under the Single Audit Act. In accordance with the provisions of OMB Circular No. A-133 (Revised, June 24, 1997), "Audits of States, Local Governments, and Non-Profit Organizations," non-federal entities that expend financial assistance of \$300,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Non-federal entities that expend less than \$300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

Records: Financial records, supporting documents, statistical records, a copy of the inmate records submission, and all other records pertinent to a grant shall be retained for a period of at least three years following the closeout of the grant.

FINANCIAL INFORMATION:

Account Identification: 15-0404-0-1-754.

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Obligations: (Grants) FY 01 \$1,136,368,639; FY 02 est \$565,452,863; and FY 03 est \$0.

Range and Average of Financial Assistance: Not available.

PROGAM ACCOMPLISHMENTS:

This program has assisted states and localities which have requested assistance in defraying the cost incurred for the imprisonment of undocumented criminal aliens, resulting in more than \$2.2 billion in SCAAP funds being distributed to approximately 336 state and local applicants in the last 4 years.

REGULATIONS, GUIDELINES, AND LITERATURE:

OJP Financial Guide and the State Criminal Alien Assistance Program Guidance and Application Kit.

INFORMATION CONTACTS:

Regional or Local Office: None.

Headquarters Office: State Criminal Alien Assistance Program, Office of Justice Programs, Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531. Contact: Division Director. Telephone: (202) 305-2088.

Web Site Address: www.usdoj.gov/bja>www.usdoj.gov/bja

RELATED PROGRAMS:

None.

EXAMPLES OF FUNDED PROJECTS:

Not applicable.

CRITERIA FOR SELECTING PROPOSALS:

Awards will be made on a pro rata share of the average costs of incarceration of a prisoner in the relevant state or locality for verified criminal aliens, based on three factors: 1) the applicant's number of qualifying undocumented criminal aliens; 2) total days for qualifying undocumented criminal aliens; 3) the total salary cost for the applicant jurisdiction; and (4) the ratio of criminal aliens' days to total population days. Total data for all applicants will be divided into the available appropriation and each applicant will receive a payment based on ("cents on the dollar"). Assistance is contingent on applicants meeting all of the above criteria, and there is no Federal obligation until all payment claims have been calculated.

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