

CHAPTER 80A

BODY ARMOR REPLACEMENT FUND PROGRAM

Authority

N.J.S.A. 52:17B-4.4 and 101.

Source and Effective Date

R.2009 d.124, effective March 19, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 80A, Body Armor Replacement Fund Program, expires on March 19, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 80A, Body Armor Replacement Fund Program, was adopted as R.1998 d.287, effective June 1, 1998. See: 30 N.J.R. 1200(a), 30 N.J.R. 2051(a). Chapter 80A, Body Armor Replacement Fund Program, expired on November 28, 2003.

Chapter 80A, Body Armor Replacement Fund Program, was adopted as new rules by R.2004 d.16, effective January 5, 2004. See: 35 N.J.R. 2836(b), 36 N.J.R. 198(a).

Chapter 80A, Body Armor Replacement Fund Program, was re-adopted as R.2009 d.124, effective March 19, 2009. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PURPOSE, SCOPE, DEFINITIONS

- 13:80A-1.1 Purpose
- 13:80A-1.2 Scope
- 13:80A-1.3 Legal authority
- 13:80A-1.4 Definitions

SUBCHAPTER 2. BODY ARMOR REPLACEMENT PROGRAM

- 13:80A-2.1 Fund uses and limitations
- 13:80A-2.2 Notification of availability and award of grants
- 13:80A-2.3 Application for funds
- 13:80A-2.4 Application components
- 13:80A-2.5 Confidentiality

SUBCHAPTER 3. PROGRAM GRANTS

- 13:80A-3.1 Initial and successive program grants
- 13:80A-3.2 Selection criteria
- 13:80A-3.3 Requests for reconsideration; no appeal of awards
- 13:80A-3.4 Grant award process
- 13:80A-3.5 Deposit of grant monies; unallowable expenses
- 13:80A-3.6 Body armor eligible to be purchased

SUBCHAPTER 4. GRANTEE ACCOUNTABILITY

- 13:80A-4.1 Expenditure of funds; return of unexpended funds
- 13:80A-4.2 Reporting requirements

SUBCHAPTER 1. PURPOSE, SCOPE, DEFINITIONS

13:80A-1.1 Purpose

This chapter describes the process to award grants from the Body Armor Replacement Fund program, enacted pursuant to

the Body Armor Replacement Fund Act. It establishes guidelines for the receipt of program funds and procedures to ensure grantee accountability. The program is established in order to make grants to local law enforcement agencies, the Division of State Police, the Department of Corrections, the Division of Criminal Justice, the Juvenile Justice Commission, the State Parole Board and the Administrative Office of the Courts for the purchase of body armor for troopers, investigators, law enforcement officers, corrections officers, juvenile corrections officers, parole officers and probation officers.

Amended by R.2009 d.124, effective April 20, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Rewrote the section.

13:80A-1.2 Scope

The rules contained in this chapter shall govern the award of initial and successive grants for body armor from the Body Armor Replacement Fund.

13:80A-1.3 Legal authority

The Attorney General has delegated to the Director of the Division of Criminal Justice, Department of Law and Public Safety, the responsibility to administer this program and to establish the rules deemed necessary to effectuate the purposes of the Fund, as established under P.L. 1997, c.177 (N.J.S.A. 52:17B-4.4).

13:80A-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Body Armor Replacement Fund Act, P.L. 1997, c.177 (N.J.S.A. 52:17B-4.4).

“Annual replacement allotment” means the number of vests required to equip one-fifth of an applicant agency’s total number of local law enforcement officers, State Department of Corrections’ officers, the Division of State Police’s officers or troopers, the Division of Criminal Justice’s investigators, the Juvenile Justice Commission’s juvenile corrections officers, the State Parole Board’s parole officers, and the Administrative Office of the Courts’ probation officers as defined within this chapter, with body armor. The number of eligible probation officers shall not exceed 200 for the annual replacement of body armor.

“Applicant” means any local law enforcement agency, the Division of State Police, the State Department of Corrections, the Juvenile Justice Commission, the State Parole Board, the Division of Criminal Justice or the Administrative Office of the Courts that makes application for a Body Armor Replacement Fund grant.

“Applicant agency head” means the person who is the chief executive officer of the law enforcement or correctional organization applying for a grant under this program.

“Body armor” means a body vest designed to be worn on the body for protection against blunt force trauma associated either with the impact of a firearm projectile or from a knife or other pointed instrument, and which meets or exceeds either of the following applicable standards: “Ballistic resistant body armor” means a vest or similar article, which is manufactured of bullet resistant fabric that conforms to National Institute of Justice (NIJ) Standard-01.106 (as amended and supplemented), in effect at the time of purchase. “Stab resistant body armor” means a vest or similar article, which is manufactured of material that conforms to NIJ Standard-0115.00, Stab Resistance of Personal Body Armor (as amended or supplemented), in effect at the time of purchase.

“Chief financial officer” means, except in the case of a municipality, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit of government or of the State agency applying for the grant. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L. 1988, c.100 (N.J.S.A. 40A:9-140.10).

“Director” means the Director of the Division of Criminal Justice.

“Eligible applicant” means an applicant that timely files a completed application with the Division of Criminal Justice, requests body armor for its eligible officers and certifies that it will utilize grant funds to purchase body armor for its eligible officers.

“Eligible officer” means a local law enforcement officer, the Division of State Police’s trooper or officer, the State Department of Corrections’ officer, the Division of Criminal Justice’s investigator, the Juvenile Justice Commission’s juvenile corrections officer, the State Parole Board’s parole officer, or the Administrative Office of the Courts’ probation officer.

“Fund” means the Body Armor Replacement Fund.

“Governing body” means the governing body of a county or the commission, council, board or body having control of the finances of a municipality or any other local unit of government.

“Investigator” means a duly appointed State investigator of the Division of Criminal Justice.

“Juvenile Justice Commission officer” means a duly appointed juvenile corrections officer of the Juvenile Justice Commission.

“Local law enforcement agency” means any police force or organization in a municipality or county which has, by statute or ordinance, the responsibility of detecting crime and en-

forcing the general criminal laws of this State. For purposes of this chapter, it also includes any municipal or county jail, detention center or correctional facility.

“Local law enforcement officer” means any full-time, sworn, permanently appointed county or municipal officer who has the full power to arrest and who regularly exercises police powers regarding the enforcement of the general criminal laws of this State. For purposes of this chapter, in accordance with the provisions of the Act, it also includes a full-time, sworn, permanently appointed officer of any county or local jail, detention center or correctional facility. The term “local law enforcement officer” includes, but is not necessarily limited to:

1. Municipal police officer;
2. Sheriffs’ officer;
3. County court attendant;
4. County corrections officer;
5. County police officer;
6. County park police officer;
7. County prosecutors’ investigator;
8. County prosecutors’ detective; and
9. Local housing police officer, guard or patrolman.

“Local unit” means a county or municipality.

“Parole officer” means a duly appointed parole officer of the State Parole Board.

“Probation officer” means a duly appointed probation officer of the Administrative Office of the Courts whose daily duties expose the officer to a substantial risk of assault by a deadly weapon.

“Program” means the Body Armor Replacement Fund Program.

“State Department of Corrections officer” means corrections officers and corrections investigators of the State Department of Corrections.

“State Police officer or trooper” means sworn members of the Division of State Police.

Amended by R.2009 d.124, effective April 20, 2009.

See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Rewrote definitions “Annual replacement allotment”, “Applicant”, “Body armor”, “Eligible officer” and “State Department of Corrections officer”; added definitions “Investigator”, “Juvenile Justice Commission officer”, “Parole officer” and “Probation officer”; and substituted definition “State Police officer or trooper” for definition “State police officer or trooper”.

Amended by R.2010 d.170, effective August 16, 2010.

See: 42 N.J.R. 839(a), 42 N.J.R. 1900(a).

Deleted definition “State fiscal year”.

SUBCHAPTER 2. BODY ARMOR REPLACEMENT PROGRAM

13:80A-2.1 Fund uses and limitations

(a) All of the monies deposited in the Fund shall be available annually for grants for the purchase of body armor, exclusive of the allocations made by the Act to the Department of Law and Public Safety for administrative expenses of the grant program and to the Department of the Treasury for funding the operation of the Law Enforcement Officer Crisis Intervention Services Telephone Hotline.

(b) All funds received by a grantee shall be used exclusively for the purchase of body armor for its eligible officers.

Amended by R.2010 d.170, effective August 16, 2010.
See: 42 N.J.R. 839(a), 42 N.J.R. 1900(a).

In (a), substituted "Fund" for "fund from the preceding State fiscal year" and "the Treasury for funding" for "Personnel for".

13:80A-2.2 Notification of availability and award of grants

(a) The Division of Criminal Justice shall publish, annually, a notice of availability of funds in the New Jersey Register.

(b) The Division of Criminal Justice shall notify eligible applicants when the annual application process is open.

(c) Program grants shall be awarded once annually.

Amended by R.2009 d.124, effective April 20, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

In (b), substituted "notify eligible applicants when the annual application process is open" for "mail grant applications upon request".

13:80A-2.3 Application for funds

To apply for funds, each applicant shall submit a completed application online to the Division of Criminal Justice by the deadline date specified in the notice of availability of funds published in the New Jersey Register. The website for filing applications online is <http://www.nj.gov/lps/BodyArmor/> (case sensitive).

Amended by R.2009 d.124, effective April 20, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Inserted "online" and inserted the last sentence.

13:80A-2.4 Application components

(a) A completed application for program funds shall include the following minimum information:

1. The governmental level and type of agency;
2. The name, address and contact information for the applicant agency and its head;
3. The name, address and contact information of the agency's governing body and its chief financial officer;

4. Eligible officer information;
5. Disclosure of status of prior body armor fund awards and number of vests purchased;
6. An online certification by the applicant agency head and the governing body's chief financial officer, certifying that the information contained in the application is true to the best of their knowledge and belief, and that all grant funds will be used exclusively for the purpose specified in the grant award; and

7. Additional information concerning applicants' officers, the age, condition, and usage of the officers' body armor, the applicants' crime rates and any relevant factors regarding risk of injury or death to applicants' officers, may be requested by the Division of Criminal Justice for planning purposes.

(b) The Division of Criminal Justice may require additional information from an applicant beyond that requested in the application form.

Amended by R.2009 d.124, effective April 20, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

In (a)6, substituted "An online" for "A", deleted "signed" following "certification" and inserted "certifying".

13:80A-2.5 Confidentiality

Applications for grants under this program and any supporting documentation are not public records for the purpose of P.L. 1963, c.73 (N.J.S.A. 47:1A-1 et seq.). These documents are confidential and shall not be released except to law enforcement personnel in connection with their official duties.

SUBCHAPTER 3. PROGRAM GRANTS

13:80A-3.1 Initial and successive program grants

Initial grants to eligible applicants shall be awarded at the conclusion of the State Fiscal Year 1998. Successive grants shall be awarded annually upon determination of available funds.

Amended by R.2010 d.170, effective August 16, 2010.
See: 42 N.J.R. 839(a), 42 N.J.R. 1900(a).

Substituted "annually" for "following the conclusion of ensuing State fiscal years,".

13:80A-3.2 Selection criteria

(a) Each applicant that submits a completed application by the deadline date specified in the notice of availability of funds shall be eligible to receive a base grant award.

(b) The Division of Criminal Justice shall notify any applicant that has submitted an incomplete application or who has been determined to be ineligible to receive an award, of that fact and the reasons therefor.

13:80A-3.3 Requests for reconsideration; no appeal of awards

(a) Within 10 days after receipt of notification of a determination of ineligibility to receive a grant, an applicant may submit additional information to the Division of Criminal Justice which shall reconsider the grant application.

(b) No appeal shall be considered of any award made to a grantee.

13:80A-3.4 Grant award process

(a) Each eligible applicant shall receive the same base grant award in an amount determined by the Director. The minimum base grant award shall be \$500.00.

(b) Consistent with the implementing legislation's goal of a five-year replacement program, each eligible applicant shall be qualified to receive additional grant funds to assist in offsetting the costs of achieving its annual replacement allotment, if funds are available.

(c) Additional grant funds shall be distributed to eligible applicants if available funds remain from the amount of monies deposited in the Fund minus statutory allotments and the amount necessary to make all of the base grant awards.

(d) The additional award to an eligible applicant shall be determined using the following formula:

$$\frac{\text{Additional award} = (\text{eligible applicant's annual replacement allotment})}{(\text{Total of all eligible applicants' annual replacement allotments})} \times \text{available funds}$$

(e) Each applicant shall be notified of its grant award at the time it receives its grant check.

(f) The Director reserves the right to adjust, in a subsequent year, any individual grant award upon determination that the applicant's prior grant award was based upon a computational or informational error.

(g) The rules of this chapter may be relaxed by the Attorney General under extraordinary circumstances and as a matter of officer safety, to authorize the distribution of a portion of the Fund as special grant funds to assist eligible applicants in the premature replacement of body armor above their eligible applicants' annual replacement allotments. Extraordinary circumstances involve a Statewide distribution to eligible applicants when a model of body armor, that is in current use by eligible officers, and is potentially defective and where the eligible applicant can certify that it has insufficient funds to replace these vests. Based on the availability of special grant funds, each eligible applicant, within the time frames set forth by the Director, may apply for a special fund award.

1. The special grant award to an eligible applicant shall be determined using the following formula:

(eligible applicant's number of questioned body armor purchased that is in current use) divided by (approximate total number of eligible applicants' number of questioned body armor that is in current use) times (available special grant funds). Notwithstanding this formula, the eligible applicant's special grant award shall be limited to the actual replacement costs of the questioned body armor.

2. After each eligible agency is notified and given an opportunity to apply for a special grant within the time frames set forth by the Director, any money remaining in the special grant fund shall revert back into the Fund.

Amended by R.2006 d.218, effective June 19, 2006.

See: 38 N.J.R. 1163(a), 38 N.J.R. 2730(a).

Added (g).

Public Notice: Notice of Availability of Funds: Body Armor Replacement Fund

See: 38 N.J.R. 2747(a).

Amended by R.2009 d.124, effective April 20, 2009.

See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Rewrote (c); in (e), deleted "base" preceding the first occurrence of "grant" and "and additional grant award" preceding "at the time"; and in the formula in (g)1, inserted the last sentence.

Amended by R.2010 d.170, effective August 16, 2010.

See: 42 N.J.R. 839(a), 42 N.J.R. 1900(a).

In (c), deleted "as of June 30" preceding "minus".

13:80A-3.5 Deposit of grant monies; unallowable expenses

(a) The grant award shall be forwarded to the chief financial officer for deposit into an appropriate account.

(b) No indirect costs or administrative expenses shall be deducted from these program funds by a grantee or its governing body.

13:80A-3.6 Body armor eligible to be purchased

(a) An applicant shall purchase only ballistic resistant body vests that meet the standards for such body armor as defined at N.J.A.C. 13:80A-1.4. An applicant shall purchase only ballistic resistant or stab-resistant body armor identified as compliant by the National Institute of Justice (NIJ), National Law Enforcement and Corrections Technology Center as having met the requirements of Ballistic Resistance of Body Armor NIJ Standard – 0101.06, as amended or supplemented, or Stab Resistance of Personal Body Armor NIJ Standard-0115.00, as amended or supplemented, in effect at the time of purchase. The National Law Enforcement and Corrections Technology Center maintains a searchable database of body armor models deemed compliant with NIJ standards available on the Internet at <http://www.justnet.org/>.

(b) In accordance with (a) above, the applicant agency head, in the reasonable exercise of discretion, shall determine the threat level, style and model of body armor to be purchased for the eligible officers.

(c) Except as provided in (c)1 below, the applicant agency head, in the reasonable exercise of discretion, shall determine the replacement program and the scheduling of eligible officers to receive body armor.

1. The State Department of Corrections shall establish a distribution schedule that gives first priority to State corrections officers assigned inmate supervision and control responsibilities in the State's maximum security correctional facilities and second priority to those officers assigned inmate supervision and control responsibilities in the State's medium security correctional facilities.

Amended by R.2009 d.124, effective April 20, 2009.
See: 41 N.J.R. 96(a), 41 N.J.R. 1877(a).

Rewrote the introductory paragraph of (a); recodified former (a)1 as new (b); deleted former (b) and (b)1; and in (b), substituted "(a) above" for "the above provision".

SUBCHAPTER 4. GRANTEE ACCOUNTABILITY

13:80A-4.1 Expenditure of funds; return of unexpended funds

(a) Each agency that receives a grant shall make every reasonable effort to expend the award within one year of receipt.

(b) The Division of Criminal Justice may require the return of all funds not expended within one year of receipt, unless the grantee demonstrates that good cause exists to retain the funds.

13:80A-4.2 Reporting requirements

Applicants shall maintain a bookkeeping system, records, invoices and separate grant files to account for all grant monies received and expended and they shall be made available to the Division of Criminal Justice upon request.