

CHAPTER 86

DRUNK DRIVING ENFORCEMENT FUND

Authority

N.J.S.A. 39:4-50.8, 52:14D-1, 52:17B-4, 52:17B-27, and Reorganization Plan No. 004-1992.

Source and Effective Date

R.2000 d.275, effective June 6, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 86, Drunk Driving Enforcement Fund, expires on December 3, 2005. See: 37 N.J.R. 2609(a).

Chapter Historical Note

Chapter 86, Drunk Driving Enforcement Fund, was adopted as R.1995 d.350, effective July 3, 1995. See: 27 N.J.R. 1367(a), 27 N.J.R. 2594(a).

Pursuant to Executive Order No. 66(1978), Chapter 86, Drunk Driving Enforcement Fund, was readopted as R.2000 d.275, effective June 6, 2000. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:86-1.1 Purpose and scope

The purpose of this chapter is to set forth the rules that govern the administration of the Drunk Driving Enforcement Fund established by N.J.S.A. 39:4-50.8 and set forth the requirements for grant awards from the Fund.

Amended by R.2000 d.275, effective July 3, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).

Deleted “. The rules in this chapter provide procedures and functions for the administration of the Drunk Driving Enforcement Fund” following “39:4-50.8”.

13:86-1.2 Definitions

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

“Authorizing official” means the chief executive officer (mayor, borough administrator, freeholder director, county executive) who has signatory authority to accept the grant on behalf of an entity.

“DDEF” or “Fund” means the Drunk Driving Enforcement Fund.

“Director” means the Director of the Office of Highway Traffic Safety.

“DWI” means driving while under the influence of alcohol or other substance in violation of N.J.S.A. 39:4-50.

“Eligible entity” means an entity that is deemed to have contributed monies to the DDEF pursuant to N.J.S.A. 39:4-50.8 during the SFY from which grant monies are made available.

“Entity” means the Division of State Police, a county or interstate law enforcement agency or a municipality.

“Financial director” means the chief financial officer of an entity responsible for financial administration of the grant.

“Project director” means the person designated by an entity to have overall responsibility for administration of the grant.

“SFY” means the State Fiscal Year, a period which commences July 1 and runs through June 30.

Amended by R.2000 d.275, effective July 3, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).
Rewrote section.

SUBCHAPTER 2. CRITERIA FOR AWARD OF ANNUAL GRANT AND EXPENDITURE

13:86-2.1 Funding

Funding is to be used for maintained enforcement of N.J.S.A. 39:4-50. The Division of State Police, interstate or county law enforcement agencies or municipalities shall use grants from the Fund to subsidize additional law enforcement patrols and for other measures approved by the director in support of these objectives in accordance with N.J.A.C. 13:86-2.3.

Amended by R.2000 d.275, effective July 3, 2000.
 See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).
 Added "in accordance with N.J.A.C. 13:86-2.3".

13:86-2.2 Availability of funds

(a) All of the monies deposited into the Fund from the preceding SFY shall be made available for one grant to each eligible entity on an annual basis. Initial grants awarded under this chapter in SFY 2001 shall consist of available monies remaining in the Fund deposited during SFY 2000. Grants awarded in SFY 2002 and successive SFYs shall be made available from all monies deposited in the Fund during the previous SFY. An entity is eligible to receive a grant if it is deemed to have contributed to the Fund pursuant to N.J.S.A. 39:4-50.8 during the SFY from which the grant monies are made available. The amount of monies available to each eligible entity as a grant shall be determined in accordance with (a)1 through 3 below.

1. The grant available to each eligible entity in SFY 2001 shall consist of:
 - i. The amount of remaining monies deposited in the Fund during SFY 2000 deemed as contributed to the Fund by the entity pursuant to N.J.S.A. 39:4-50.8; and
 - ii. A portion of the remaining monies deposited in the Fund during SFY 2000 pursuant to N.J.S.A. 26:2B-35.
2. The grant available to each entity in SFY 2002 and successive SFYs shall consist of:
 - i. The amount of monies deposited in the Fund during the previous SFY deemed as contributed to the Fund by the entity pursuant to N.J.S.A. 39:4-50.8; and
 - ii. A portion of the monies deposited in the Fund during the previous SFY pursuant to N.J.S.A. 26:2B-35.
3. The Director shall calculate the portion in (a)1ii and 2ii above by applying the following formula:

Entity's Portion of Monies Deposited Pursuant to N.J.S.A. 26:2B-35 =

$$\frac{\text{Monies Deemed Contributed by Eligible Entity Pursuant to N.J.S.A. 39:4-50.8}}{\text{Total Monies Contributed to Fund Pursuant to N.J.S.A. 39:4-50.8}} \times \text{Total Monies Deposited Pursuant to N.J.S.A. 26:2B-35}$$

(b) By (90 days from the effective date of this rule), the Director shall notify each eligible entity of the amount of monies in the Fund available to it pursuant to (a)1 above. The Director shall also mail with the notice to each eligible entity a DDEF grant application form described in (c) below. For grants in successive years, the Director shall notify each eligible entity of the amount of monies available to it pursuant to (a)2 above within 90 days of the close of the SFY and mail with the notice to each eligible entity a grant application form set forth in (c) below.

(c) To apply for the grant available in any SFY, the eligible entity shall complete and return to the Director the grant application no later than 90 days prior to the end of the SFY in which the grant is offered. The completed application shall include the following information:

1. The governmental type of eligible entity;
2. The name, address and contact information of the entity's authorizing official, DDEF program project director, and DDEF program financial director;
3. The amount of DDEF monies received and expended in the previous SFY;
4. Any request required by N.J.A.C. 13:86-2.3(b);
5. Any report on expenditures of a previous grant as required by N.J.A.C. 13:86-2.5(b); and
6. A certification by the entity's authorizing official, project director and financial director that the information contained in the application is true and accurate to the best of their knowledge and that the entity shall:
 - i. Deposit all grant monies in a separate account dedicated exclusively to the entity's DDEF program as required by N.J.A.C. 13:86-5.6(c);
 - ii. Expend all monies received in accordance with the rules set forth at N.J.A.C. 13:85-2.3; and
 - iii. Comply with all other rules in this chapter and any special conditions attached to the award pursuant to N.J.A.C. 13:86-2.6(b).

(d) In addition to the requirements in (c) above, the Director may require additional information from an applying eligible entity beyond that stated above where necessary for purposes of planning or evaluating the DDEF program or in connection with the entity's expenditure of grant funds or compliance with these rules. Applicants may request information regarding the Fund at any time by writing to the Director at PO Box 048, Trenton, New Jersey 08625-0048.

(e) Where an eligible entity fails to return the application within the period provided in (c) above, the Director shall add the amount of the grant to amount of the next available grant for which the entity is eligible and submits an application.

Amended by R.2000 d.275, effective by July 3, 2000.
 See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).
 Rewrote section.

13:86-2.3 Proposal; allowable expenditures; priority

- (a) An entity that is awarded a grant shall allocate and expend all monies in the following manner:
1. The entity shall allocate and expend at least 50 percent of the funds for the overtime paid to law enforcement personnel assigned to conduct additional law enforcement patrols or DWI checkpoint programs to increase the enforcement of N.J.S.A. 39:4-50.

2. The entity may allocate and expend the remaining funds in accordance with the needs of its drunk driving enforcement program on any of the following items and may reallocate and expend the funds among the items as it determines is necessary during the course of the SFY in which the grant is received for such items:

- i. Salaries for overtime court appearances of law enforcement officers required in connection with the prosecution of a violation of N.J.S.A. 39:4-50;
- ii. Audio-visual equipment used to document and preserve evidence of enforcement of N.J.S.A. 39:4-50;
- iii. Breathtesting instruments approved by the Attorney General pursuant to N.J.A.C. 13:51-3.1 et seq.;
- iv. Blood test kits; and
- v. Safety equipment such as cones, flares, lighting, or reflectorized clothing needed to conduct DWI checkpoints for enforcement of N.J.S.A. 39:4-50.

(b) An entity may request in its application approval to allocate and expend from the amount of monies allocated in (a)2 above monies on equipment or an activity not listed in (a)2 above. Requests shall be approved on a case-by-case basis in accordance with N.J.A.C. 13:86-2.4. The request shall describe the activity or equipment for which approval is sought, the amount of the expenditure for the activity or equipment, how the entity's needs with respect to the items in (a)2 above shall be met, and how the activity or equipment shall enhance the ability of the entity to increase enforcement of N.J.S.A. 39:4-50.

(c) Where grant monies remain unexpended at the close of the SFY, the entity shall carry the unexpended amount forward into the next SFY and shall expend at least 50 percent of the unexpended amount for the purpose set forth in (a)1 above and the remainder for the purposes set forth in (a)2 above.

Amended by R.2000 d.275, effective July 3, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).
Rewrote section.

13:86-2.4 Approval; denial; modification; payment

(a) The Director shall review each application and notify the Attorney General of each entity that has submitted a completed application to expend grant monies in conformance with the requirements of N.J.A.C. 13:86-2.3(a).

(b) If a completed application includes a request pursuant to N.J.A.C. 13:86-2.3(b) to expend monies for an item not listed in N.J.A.C. 13:86-2.3(a)2, the Director shall recommend to the Attorney General that the request be approved if the Director determines the proposed expenditure will enhance the ability of the entity to increase enforcement of N.J.S.A. 39:4-50. The Attorney General shall review the request and recommendation. The Attorney General shall approve the request if the Director has recommended ap-

proval and the Attorney General determines the proposed expenditure will enhance the ability of the entity to increase enforcement of N.J.S.A. 39:4-50.

(c) If the request to expend monies on an item not included in N.J.A.C. 13:86-2.3(a)2 is not approved, the Director shall notify the applicant in writing of the reason for the disapproval of the request.

(d) If additional information is required, the Director shall contact the applicant by letter or telephone.

(e) Upon approval of an application, the Director shall notify the Department of Treasury to issue a check directly to the eligible entity.

Amended by R.2000 d.275, effective July 3, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).

Rewrote section.

13:86-2.5 Schedule/monitoring

(a) The Director shall monitor the expenditure of grant funds by each entity and may inspect equipment and other materials purchased with grant funds or audit records pursuant to N.J.A.C. 13:86-2.6.

(b) An entity which has received a grant from the Fund during a SFY shall submit to the Director a report on the expenditures of the grant. The entity shall submit the report with the application required in N.J.A.C. 13:86-2.2 or, if the entity is not eligible for a grant or is not applying for a grant, within 90 days of the close of the SFY in which the entity received the grant which is the subject of the report. The report shall include a statement of expenditures and shall be supported by documentation of expenditures for the support of overtime salaries for law enforcement personnel, equipment, and other items or activities authorized by N.J.A.C. 13:86-2.3. The entity's project director and financial director shall certify that the information contained in the report is true and accurate to the best of their knowledge. The Director shall provide the report form to the entity.

Amended by R.2000 d.275, effective July 3, 2000.
See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).

Rewrote section.

13:86-2.6 Audit/non-compliance/special conditions

(a) The entity shall provide the Director access to all records including, but not limited to, reports, accounts, payrolls and documents necessary to verify that grants from the Fund have been expended by the applicant in accordance with this chapter. Where an entity fails to comply with a written request from the Director regarding access to such records during the regular business hours of the entity or the submission of records to the Director's office, the Director shall recommend to the Attorney General that the award of the next grant available to the entity for which it applies be delayed until the entity provides the access requested.

(b) If the records of any audit or a review of any DDEF grant application or expenditure report or inspection of equipment or materials reveal that funds have been expended contrary to the terms of the entity's approved application, or contrary to N.J.A.C. 13:86-2.3 or administered in any other manner contrary to this chapter, the Director shall recommend to the Attorney General whether special conditions should be attached to the issuance of the next grant for which it is eligible and applies. Special conditions may include, but are not limited to, requiring the entity to notify the Director prior to any expenditure or submission of monthly expenditure reports in addition to the report required by N.J.A.C. 13:86-2.5(b). If the Attorney General agrees that the recommended or other special conditions are necessary to ensure the entity expends grant monies in conformance with this chapter, the Director shall notify the entity of the special conditions and include them with the application supplied under N.J.A.C. 13:86-2.2(c).

(c) Each entity shall establish a separate account dedicated exclusively to the entity's DDEF program for the deposit of all grant monies.

Amended by R.2000 d.275, effective July 3, 2000.

See: 32 N.J.R. 1498(a), 32 N.J.R. 2455(a).

Rewrote section.