

settlement through the consent decree process.”<sup>1</sup> Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should \* \* \* carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

*United States v. Mid-America Diarmen, Inc.*, 1977-1 trade Cas. ¶ 61,508, to 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not “engage in an unrestricted evaluation of what relief would best serve the public.” *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981). *See also Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that:

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ‘within the reaches of the public interest.’ More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.<sup>2</sup>

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement

<sup>1</sup> 119 Cong. Rec. 24598 (1973). *See United States v. Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A “public interest” determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See H.R. 93-1463*, 93rd Cong. 2d. Sess. 8-9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

<sup>2</sup> *United States v. Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States v. BNS, Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States v. Gillette Co.*, 406 F. Supp. at 716. *See also United States v. American Cyanamid Co.*, 719 F.2d at 565.

reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

*United States v. Armour & Co.* 402 U.S. 673, 681 (1971).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is ‘within the reaches of public interest.’ (citations omitted).”<sup>3</sup>

#### VIII. Determinative Documents

There were no determinative documents, within the meaning of the APPA, that were considered by the United States in formulating the proposed Final Judgment.

Dated: November 8, 1999.

For Plaintiff United States of America.  
John F. Greaney,  
*Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, DC 20530, Telephone: (202) 305-9965, Facsimile: (202) 307-5802.*

#### Certificate of Service

I hereby certify that I caused a copy of the foregoing Competitive Impact Statement to be served by first class mail, postage prepaid, this 8th day of November, 1999, on:

Dale Hershey, Esquire,  
*Eckert Seamans Cherin & Mellott, LLC, USX Tower, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566-6058.*

Counsel for Defendant Harsco  
Wayne Dale Collins, Esquire,  
*Shearman & Sterling, 599 Lexington Ave., New York, NY 10022-6069, (212) 848-4127.*

Counsel for Defendants Pandrol Jackson Limited and Pandrol Jackson Inc.

Dated: November 8, 1999.

John F. Greaney, Esquire.,  
*Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.—Suite 3000, Washington, D.C. 20530, (202) 305-9965*

[FR Doc. 99-30791 Filed 11-24-99; 8:45 am]

**BILLING CODE 4410-11-M**

<sup>3</sup> *United States v. American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983), *quoting United States v. Gillette Co.*, *supra*, 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985)

## DEPARTMENT OF JUSTICE

### National Institute of Corrections

#### Solicitation for a Cooperative Agreement

**AGENCY:** National Institute of Corrections, Department of Justice.

**ACTION:** Solicitation for a Cooperative Agreement.

**SUMMARY:** The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to fund the project “Effective Prison Mental Health Services”. NIC will award a one year cooperative agreement to: develop a handbook or manual that will provide information to state correctional agencies in identifying current practices, policies, and procedures and their impact on offenders with mental health disorders.

A cooperative agreement is a form of assistance relationship where the National Institute of Corrections is substantially involved during the performance of the award. An award is made to an organization that will, in concert with the Institute, identify the “effective practices and intervention” regarding the care and management of offenders with mental health problems.

#### Background

According to recent estimates, nearly 95,000 (12.5%) of all prison inmates have significant psychiatric problems, problems requiring intermittent care, and 54,000 (7%) have serious mental health problems. Research indicates persons displaying the signs and symptoms of mental disorders are more likely to be arrested than members of the general public, and more likely to be incarcerated for violent offenses compared to the rest of the inmate population. The prevalence of offenders with a mental disorder among correctional populations presents enormous challenges to correctional personnel. Limited availability of in prison treatment programs, coupled with the lack of community resources, enhance the likelihood that their mental disorders may cause them to recidivate, often returning with a worst condition. There is a paucity of information about in-prison mental health programs and services, transition and community mental health services for released offenders, and effective linkages between prison systems and state and local mental health systems/ departments.

## Purpose

To document and make available to correctional practitioners and state mental health providers the current knowledge on effective mental health services and interventions for mentally ill offenders in prisons.

### Objectives:

1. To develop a publication that addresses the effective management and care, treatment modalities, their effectiveness, and innovative approaches for offenders with mental health needs; and
2. To develop a consistent operational definition of an offender with mental health needs.

NIC considers it important for the applicant to discuss how the following questions or other criteria identified by the applicant would be employed for documenting effective prison mental health services and interventions:

- Are there explicit models or research evidence of how the mental health services or interventions are supposed to work within prisons?
- Is there information or substantiation that mental health services and interventions employs methods which have been consistently effective with mentally ill offenders in prison?
- Are the services or interventions delivered in ways which engage the mentally ill offender in active participation—e.g., responsiveness?
- Are the services or intervention(s) rigorously managed and designed?
- Do the mental health services support the principle of continuum of care—e.g., screening, assessment for diagnosis and risk, treatment planning, range of interventions, transitional care from prison to the community, relapse prevention and intervention, and linkages to appropriate community mental health and other support services?
- What evidence or information is available that services or interventions are delivered and overseen by qualified professionals consistent with generally accepted protocols—i.e., valid assessment and screening tools, treatment interventions matched to the level of the offender need, case management strategies, treatment providers who are licensed and meet specific standards, etc.?
- What research efforts have been conducted to assess the effectiveness of the intervention being reviewed by the project?

## Project Scope

The project's strategy or design should address the following areas:

- Screening and assessment
- Intervention techniques
- Community and aftercare linkages
- Treatment approaches
- Case management
- Relapse Prevention or Intervention
- Planning
- Transitional services
- Staff Training
- Peer Support
- Alternative Sanctions
- Instruments to assess, develop or identify treatment programs
- Individualized Treatment approaches
- Cultural competency
- Gender based treatment
- Monitoring, evaluating program integrity.

The successful applicant would be required to: (1) Use some portion of the funds to collaborate with other correctional and mental health professionals (experts) to review the current state of mental health programs in corrections; (2) Develop an understanding of the types of behavior which indicate mental health needs and develop a consistent operational definition of an offender with a mental disorder; (3) Identify sample programs, addressing relevant standards and legal issues; (4) Develop a document for practitioners that presents guidelines and criteria for successful mental health programs specific incarcerated populations, including youthful offenders, women offenders, segregation, and general populations; (5) Fully discuss how in-prison mental health programs can assist in public protection and the more effective use of community resources, and; (6) Provide an instrument to be used to assess effective in-prison mental health programs.

- In consultation with NIC prepare and edit a final camera-ready copy of the document for NIC publication in accordance with the NIC Preparation of Printed Materials for Publication. Submit the final product in hard copy and Word Perfect format.

## Application Requirement

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Applicant should provide an implementation plan for the project and include a schedule which will demonstrate milestones for significant tasks in chart form. The project will be initiated in early 2000 and is to be completed in early 2001.

## Authority

Public Law 93-415.

## Funds Available

The award will be limited to a maximum of \$150,000 (direct and indirect costs). Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. This project will be a collaborative venture with the NIC Prisons Division.

## Deadline for Receipt of Applications

Applications must be received by 4:00 pm Eastern Time on Tuesday, December 21, 1999. Applications mailed or express delivery should be sent to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attn: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley (307-3106 and press 0) to come to the desk for pickup.

## Addresses and Further Information

Requests for the application kit should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995-6423, extension 159 or (202) 307-3106, extension 159. She can also be contacted by E-mail via [jevens@bop.gov](mailto:jevens@bop.gov). All technical and or programmatic questions concerning this announcement should be directed to Madeline M. Ortiz at the above address or by calling (800) 995-6423, extension 141 or (202) 307-1300, extension 141, or by E-mail via [mmortiz@bop.gov](mailto:mmortiz@bop.gov). A copy of this announcement and application forms may also be obtained through the NIC web site: <http://www.nicic.org> (click on "What's New" and "Cooperative Agreements").

## Eligible Applicants

An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, or individual with expertise in correctional mental health services.

## Review Considerations

Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

## Number of Awards

One (1).

## NIC Application Number

00P10 This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

**Executive Order 12372**

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contract (SPOC), a list of which is included in the application Kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is 16.603.

Dated: November 18, 1999.

**Larry Solomon,**

*Acting Director, National Institute of Corrections.*

[FR Doc. 99-30770 Filed 11-24-99; 8:45 am]

**BILLING CODE 4410-36-M**

**DEPARTMENT OF JUSTICE****National Institute of Corrections****Availability of Funds in FY 2000 for a Cooperative Agreement to Develop the Training Curriculum, How to Develop Management Training**

**AGENCY:** National Institute of Corrections, Department of Justice.

**ACTION:** Solicitation for a cooperative agreement.

**SUMMARY:** The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to develop the training curriculum, How to Develop Management Training.

The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a standard, core curriculum for training persons responsible for the development of management training for supervisors and administrators within juvenile corrections and detention settings. To enable the Institute to offer state-of-the-art guidance for the development of management training, the award recipient will develop a 32-hour training curriculum including an instructors' guide with lesson plans, computer-generated view graphs to support the curriculum, and participant manual. The 32-hour curriculum will provide juvenile corrections and detention trainers multiple development and delivery methods and strategies to construct management training within their agencies that will equip managers with the core competencies to perform

effectively. (It is not within the scope of this cooperative agreement to provide piloting or direct delivery of the curriculum.)

The award recipient will become familiar with the management and leadership training programs currently being offered at NIC. The recipient will utilize this information, as well as contribute to the development of new information on management practices most desirable in today's rapidly changing juvenile corrections and detention environment.

As a collaborative venture with the NIC Academy Division, the recipient will develop training outcomes for the project in partnership with the NIC project manager. Funding for this cooperative agreement comes from an Interagency Agreement (IAA) between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and NIC. A total of \$30,000 is reserved for the project which will support one cooperative agreement for a 6-month period. The recipient of the award will be selected through a competitive solicitation process. Steven Swisher, Correctional Program Specialist (CPS), is the designated NIC project manager.

**Background**

Well-trained, effective managers and leaders within juvenile corrections and detention agencies have been a focus of the training and services the NIC has provided through an IAA with OJJDP over the past nine years. As a part of that IAA and as a result of a national juvenile training needs assessment conducted in the fall of 1998, curricula and services for training staff continue to be identified as critical in capacitating juvenile correctional and detention agencies to develop and sustain effective management and leadership within their organizations. Through this work, NIC and OJJDP recognize the need for a training curriculum that specifically addresses the development of training for training staff charged with management training within their organization.

**Purpose**

This project is intended to provide juvenile corrections and detention training persons with:

- A training curriculum that provides trainers with an in-depth understanding and skills to develop dynamic and versatile management training for staff within their agencies.
- An interactive training format minimally using an instructor's guide, computer-generated view graphs to support the curriculum content and a participant manual with a record of core

principles, practices, and methods learned in the training experience.

**Project Content**

The award recipient will propose strategies and effective models for developing and implementing management training in juvenile corrections and detention settings. The award recipient will develop modules addressing current and future core competencies that would support effective management practices. The recipient will also develop modules to address innovative training delivery strategies juvenile agencies can utilize to overcome existing barriers such as lack of resources or expertise, among others, to meet their management training needs.

**A. Required Activities**

- Consult with the NIC Academy Correctional Program Specialist on an agreed time line to assure progress and understanding of the scope of work.
- Conduct a preliminary review of the National Juvenile Justice Training Needs Assessment Proceedings, November 1998.
- Thoroughly review any other existing training materials developed by NIC, OJJDP or other agencies for relevant parts that could be re-written for application to this project.
- Using the Course Title, Description, Objectives and other relevant information, conduct and facilitate necessary planning meetings with content experts (selected with input from CPS) to generate the framework, concepts, modules, content, strategies and performance objectives. (All of above is subject to final approval by CPS. Final curriculum Title, Course Description and Objectives will be developed collaboratively with the CPS).
- Assign and coordinate writing, development and revisions of the modules and content areas for the curriculum, including multi-media materials.
- Develop, edit, revise, format, and package curriculum, lesson plans, computer-generated view graphs, audiovisual aids and other course material. The package will include an Instructors Guide/Manual, Participant Manual, and any other supporting materials for the curriculum. Each phase of the training instruction will have a separate, tabbed section in the manual. The first page of each section of the materials should set forth the performance objectives for the module. Pages within the section should be consecutively numbered in the order in which they will be used during the