



U. S. Department of Justice

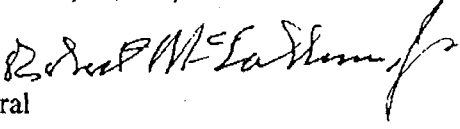
Office of the Associate Attorney General

The Associate Attorney General

Washington, D.C. 20530

February 9, 2005

TO: Heads of Components, Offices, Boards, Bureaus and Divisions

FROM: Robert D. McCallum, Jr. 
Associate Attorney General

SUBJECT: The Attorney Student Loan Repayment Program (ASLRP)

PURPOSE: To report results of FY 2004 ASLRP and to outline the FY 2005 ASLRP.

TIMETABLE: Input on component-specific qualifications and component ASLRP contacts is due by February 25, 2005. Renewal payments for current beneficiaries are due in June 2005. Payment for new recipients to be selected this spring are due not later than September 2005.

SYNOPSIS: The Department implemented the ASLRP in 2003 pursuant to a series of initiatives announced by the Attorney General and Deputy Attorney General. A Department-level panel administers the ASLRP and selects qualifying beneficiaries for an incentive program budgeted at \$900,000 for FY 2005. This memorandum reports results of the FY 04 ASLRP and requests component input for the FY 2005 ASLRP. Components are asked to identify high or unique attorney qualifications, skills, or abilities and/or special needs of the Department and justify them using specified factors of recruitment or retention difficulty (attached) or other relevant factors, and submit them through OARM to the Panel by February 16, 2005 for review. Guidance on funding FY 05 loan repayments on behalf of current (FY 03 and FY 04) and new (FY 05) beneficiaries is outlined.

DISCUSSION:

A. ASLRP Overview

The Department of Justice implemented the ASLRP as one of several initiatives announced by the Attorney General and Deputy Attorney General in February 2003. Based on the provisions of 5 U.S. Code, section 5379, the ASLRP is an incentive program designed to *recruit and retain* highly qualified attorneys for hard-to-fill positions.

FY 2003 ASLRP funding consisted of \$300,000 intended to fund payments of \$6,000 for 50 attorneys. The payment amount set by the Department mirrored the then-existing statutory payment limit of \$6,000 per year with a lifetime maximum of \$40,000 per recipient. Although the statutory maximum has since increased to \$10,000 per year with a lifetime maximum of \$60,000, the Department decided to adhere to its original limits in order to extend benefits to a greater number of recipients.

Each year, an additional \$300,000 is required to fund the new group of selected beneficiaries. Thus, in FY 2004 (the second year of implementation), the ASLRP required \$600,000 to support renewal payments for the FY 2003 beneficiaries and initial payments for the FY 2004 recipients. In 2005, funding will increase to \$900,000. The lifetime maximum that any attorney can receive through the ASLRP is \$40,000, in increments not to exceed \$6,000 per year. The number of beneficiaries selected each year is variable, subject to available funding. This is the result of a "matching funds" policy (e.g., the Department matches the payments made by more senior attorneys toward their qualifying federal student loans up to \$6,000 annually), which extended the number of recipients from 50 each year to approximately 60 because some recipients receive less than \$6,000. Under the current Department policy, once selected, attorneys may remain in the program until they reach the lifetime maximum (\$40,000), provided they remain eligible and subject to the availability of funds. Funding is borne by the component to which selected attorneys are assigned.

B. The Application and Selection Process

All Department of Justice attorneys serving in attorney positions with qualifying Federal student loans can request ASLRP consideration. A Department-level Panel, chaired by the Associate Attorney General, composed of five voting members (the Director, EOUSA; the AAG of the Civil Division (this position rotates to a different component every two years); the Director, OARM; the DAAG (Human Resources / Administration), JMD; and the DAAG (Office of the Controller), JMD (or their delegates)), reviews all requests and selects new recipients each fiscal year. Attorneys selected for ASLRP incur a three-year service obligation with the Department. There is a rebuttable presumption of renewal of benefits for existing beneficiaries for the second and third year of the service agreement, but it is not automatic. Recipients must submit a renewal request documenting continued eligibility and so that the Department can monitor distribution of payments to qualifying student loans. Further extensions of benefits (up to the authorized lifetime total) are contingent on an extension of the service obligation.

The ASLRP is both a recruitment and retention incentive. Under the original ASLRP policy, there were four categories of requesters based on employment status (recruitment v. retention) and position category (pre-qualified v. case-by-case). However, two years of experience with ASLRP indicated the need to simplify the procedure, as there was often little to distinguish between candidates based on these characterizations. The Panel also shifted the focus of its evaluation to the attorney's "high or unique qualifications" or "special need of the Department," to minimize the perception that selection for the ASLRP is a continuing reward for past academic accomplishments and to incorporate feedback from the components.

For 2005, the Panel eliminated the "pre-qualified position" characterization, substituted a requirement for all attorneys to submit a justification for selection (attached at TAB A), incorporated a link between performance and accomplishment of DOJ Strategic Goals, improved the process where components identify qualifications they seek, and modified the review process to add a component recommendation of the score to be awarded for their applicants. It also added a new section to the component review where components are requested to provide input on the degree of the attorney's demonstrated potential based on objective accomplishments.

C. Annual Payment Amounts

On November 11, 2003, Congress increased the maximum authorized student loan repayment to \$10,000 per year up to a lifetime total of \$60,000, but did not address the tax status of the incentive payment (*see* P.L. 108-123, 117 Stat. 1345). The Department exercises independent discretion in determining benefit amounts for its employees up to the statutory maximum. After careful consideration, the Panel voted to retain annual ASLRP maximum payments at \$6,000 with a lifetime cap of \$40,000 in order to maximize the number of possible beneficiaries. This Panel based this decision, in part, on an informal survey of student loan payments made by two recent Honors Program classes, who reported average annual student loan payments of \$5,800.

By policy, the Department has a two-tier system to determine award amounts. Attorneys in lower pay grades whose annual base salary (less locality pay) does not exceed \$74,000 automatically receive the maximum payment without consideration of the amount they individually paid toward qualifying federal student loans. Attorneys in higher pay grades whose annual base salary exceeds \$74,000 receive an incentive payment that "matches" the annual amount the individual paid toward qualifying Federal student loans, up to the \$6,000 Department of Justice maximum.

D. Results of FY 2004 ASLRP

In FY 2004, the Department issued ASLRP incentive payments to 115 attorneys at a cost of \$594,295. This includes awards totaling \$326,000 to 60 new FY 2004 recipients and renewal payments of \$268,299 to 55 of the 61 recipients originally selected in FY 2003. Six FY 2003 recipients dropped out: one failed to renew but is still subject to the original three-year service

obligation; three made intra-Department job transfers that required them to re-compete for ASLRP benefits (all were reselected and are subject to a new three-year service obligation); and two left the Department during their initial service obligation. The Department instituted action to recoup payments issued to the two attorneys who failed to complete their service obligation.

1. Demographics: Consistent with existing standards governing the collection and use of information pertaining to race, sex, ethnicity, or national origin (RSNO), submission of data is voluntary. OARM maintains all RSNO information in confidence throughout the evaluation and selection process. The Panel does not consider this data when selecting beneficiaries.

a. New FY 2004 Recipients: The 60 new 2004 recipients represent nine components (31 recipients) and 18 U.S. Attorneys' Offices nationwide (29 recipients). Two-thirds of new FY 04 beneficiaries were male, with one-third female. Almost 40 percent (39.21%) of new FY 04 beneficiaries who provided race or ethnicity information identified themselves as belonging to one or more minority racial or ethnic groups.

b. Total ASLRP Diversity (FY 2003 and FY 2004 Combined): Overall, the Department issued ASLRP incentives totaling \$594,295 to 115 attorneys representing 9 components and 25 U.S. Attorneys' Offices nationwide. Sixty-one percent of total FY 2004 beneficiaries are male; thirty-nine percent are female. Over 34 percent (34.34%) of total FY 2004 beneficiaries who provided race or ethnicity information identified themselves as belonging to one or more minority racial or ethnic groups.

2. Basis for Selection: Based on the provisions of 5 U.S. Code, section 5379, the ASLRP is an incentive program designed to *recruit and retain* highly qualified attorneys for hard-to-fill positions. In FY 2004, 8.33% of selections were recruitment-based (e.g., incoming Honors Program or lateral attorneys), with 91.67% of selections based on retention. Attorneys assigned to or hired for a "pre-qualified" position accounted for approximately 45% of selections, and the remaining 55% of recipients requesting consideration on a "case-by-case" basis.

3. Grade/Salary Range and Loan Repayment Award: Consistent with the intent of the incentive program, the Department did not establish a salary ceiling beyond which attorneys could not compete for inclusion in the Program. Beneficiaries included attorneys holding pay grades ranging from GS-11 to GS-15 (or equivalent for Assistant U.S. Attorneys). Actual payment amounts were determined based on each attorney's annual base salary as outlined in section C.

E. FY 2005 ASLRP Issues

1. Budget: As of 2005, ASLRP costs will reach \$900,000. The FY 2005 budget currently has \$250,000 earmarked for ASLRP, which OARM recommends be passed back to the components on an equitable basis to offset their ASLRP costs. The components pay the remaining costs for all their assigned attorneys who are participants in the program.

The component to which each attorney is assigned is responsible for FY 05 funding in the amount for which the attorney originally was approved (the baseline) subject to any offset based on receipt of designated ASLRP funds in the FY 2005 budget. FY 05 renewal payments for existing beneficiaries will be issued in June 2005. No extension of the current service agreement is required for any FY 2003 or FY 2004 beneficiary (initial 3-year service agreements remain in force). Renewals are not automatic – current ASLRP recipients must submit a renewal request for approval to document continued eligibility and proper distribution of ASLRP payments to qualifying student loans. OARM will notify components of approved renewals prior to disbursement of funds.

In late June/early July, the Panel will select recipients of FY 2005 ASLRP incentives. Components to which new recipients are assigned will remit payments on their behalf by the end of the fiscal year, except for recruitment-based awards for new hires that have not yet entered on duty. Components will remit those payments immediately following the attorney's entry on duty. Funding for those attorneys will be obligated in FY 2005, and will not carry over into FY 2006 budgets.

2. Revised Selection Process for FY 2005: Implementation of the FY 2005 ASLRP is in progress. Please note that the Panel eliminated the "pre-qualified position" characterization, substituted a requirement for all attorneys to submit a justification for selection, and segregated educational accomplishments into a separate portion of the justification packet. However, component-specific requirements and desired qualifications are a vital part of the evaluation process. **Please identify any skill sets or qualifications needed by your component to establish "high or unique qualifications relevant to DOJ employment" or "special need of the Department," and justify them using the factors listed on Appendix B of the ASLRP policy, or other relevant factors that you may define and provide them to OARM (Attention: Deana Willis) by February 25, 2005.** Appendix A of the FY 2004 ASLRP policy will be reconfigured for FY 2005 to reflect component-specific criteria used to establish "high or unique qualifications relevant to DOJ employment" or "special need of the Department rather than pre-qualifying positions. Negative responses are required. (Copies of FY 04 Appendices A and B are posted at www.usdoj.gov/oarm/aslrp/aslrp.htm.) Component-specific criteria play an integral part in the justification process, and may be used by the component as a basis for recommending scores to be awarded to the individual attorney. Component-specific qualifications may include, but are not limited to: professional qualifications, admission to specialty bars, undergraduate or advanced degrees in fields relevant to the component's practice, foreign language proficiency, assignment to hard-to-fill geographic locations, judicial clerkship experience (if relevant to the component's practice), experience that contributes to effectiveness as an attorney in the component, and skills that contribute directly to the accomplishment of the Department's Strategic Goals of preventing terrorism; enforcing federal laws and representing the rights and interests of the American people; assisting state, local and tribal efforts to prevent or reduce crime and violence; and ensuring the fair and efficient operation of the federal justice system. If appropriate, please include a standard by which such qualifications should be measured (e.g., fluency in a foreign language).

3. Designation of Component ASLRP Points of Contact for 2005: Each Office, Board, Bureau and Division must identify a point of contact to accept and process requests for consideration submitted by its attorneys. A list of contacts for 2004 is posted on the "Attorney Student Loan Repayment Program link at www.usdoj.gov/oarm. Please update the listing for 2005 by contacting Deana Willis, OARM, at deana.willis@usdoj.gov.

OARM is the point of contact for any questions or comments pertaining to the ASLRP. If you have any questions, please contact Louis DeFalaise at 202-514-4420.

JUSTIFICATION

The Program Administration Panel will carefully consider your responses to the information requested below. Please follow the categories in the order specified. An appropriate response will be succinct, well organized, and relevant to the specific category. There are suggested areas of interest listed in italics under some of the categories. You are not required to address each area of interest – they are suggestions intended to identify the relevant topics of interest for that category.

1. Education: Please summarize your educational background.

Areas of interest include law school academic background, law review, competitive moot court (e.g., Jessup Cup, etc – not mandatory first-year moot court), graduate law degrees, other advanced degrees, and continued professional education or training. Please highlight any significant honors or achievements. Do not address judicial clerkships.

2. High or Unique Qualifications Relevant to DOJ Duties - or - Special Need of the Department:

- You must justify ASLRP selection based on one or both of these elements.
- You may articulate how you meet component qualifications (posted on Appendix A) for your assigned component. If there is nothing for your component listed on Appendix A or you do not meet the listed qualifications, then you must provide a justification sufficient for the Department to find that you meet one of the elements above.
- You must explain how your qualifications or your ability to meet a special Department need impact on your current duties.
- Your response may not exceed 1 page.

Areas of interest include:

a. Whether you meet specific component-identified qualifications for the position to which you are currently assigned (e.g., membership in specialty bar (e.g., Patent Bar) or other professional qualifications relating to attorney's duties (e.g., CPA, Patent Agent), undergraduate or advanced degrees in fields relevant to DOJ component's practice, foreign language fluency (e.g., must possess professional proficiency in the spoken and written language and be able to conduct legal business associated with your DOJ position, etc.) See Appendix A for a listing of component-identified qualifications. (Please note, you must actually be assigned to the component in order to justify ASLRP using Appendix A qualifications. For example, do not base your justification on qualifications listed by the Antitrust Division if you are assigned to the Criminal Division).

b. Judicial Clerkship (but only if relevant to your current duties).

c. Other knowledge, skills, experience, education, prior employment, or training that contributes to your effectiveness as a DOJ attorney.

d. Assignment to a component-designated "hard-to-fill" location (also listed on Appendix A). You must actually be assigned to the listing component and to the geographic location.

e. The manner in which you contribute directly to accomplishment of one or more DOJ Strategic Goals.

1. *Prevent Terrorism and Promote the Nation's Security*
2. *Enforce Federal Laws and Represent the Rights and Interests of the American People*
3. *Assist State, Local, and Tribal Efforts to Prevent or Reduce Crime and Violence*
4. *Ensure the Fair and Efficient Operation of the Federal Justice System*

3. Demonstrated Potential Based on Objective Accomplishments: This area focuses on your overall potential as demonstrated by activities within the past 12 months. Honors Program attorneys and lateral hires who have not yet entered on duty with the Department should base their responses on their current employment or school environment.

Areas of interest include:

- *Performance evaluations*
- *Ability to train or mentor others*
- *Pro bono or other volunteer or public service activities*
- *Other service to the Component or the Department (e.g., represents the component as a public speaker, moot court judge for law school competitions, legal recruiting activities, etc.)*
- *Demonstrated leadership*

4. The Basis for a Determination of Recruitment or Retention Difficulty: Please articulate a basis for a determination of the degree of recruitment or retention difficulty.

- *You may use factors listed in Appendix B, or other relevant factors.*
- *Attorneys already on duty with the Department must address the extent to which their departure would affect DOJ's ability to carry out an activity or perform a mission-essential function.*

5. Short Essay: Provide a short essay (not to exceed 1 page) discussing either the greatest challenge you faced in pursuing your legal career or your greatest contribution to the legal profession.
