

County of Santa Clara
Office of the County Executive
Children and Family Services, Public Safety & Justice




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DATE: April 2, 2009

TO: Supervisor George Shirakawa, Chairperson
Supervisor Donald F. Gage, Vice Chair
Public Safety & Justice Committee

FROM: 
Gary A. Graves
Acting County Executive

SUBJECT: Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program

RECOMMENDED ACTION

Consider recommendations from the County Executive relating to the Edward Byrne Memorial ("Byrne") Justice Assistance Grant (JAG) formula program and forward favorable recommendations to the Board.

Possible actions:

- a. Accept report relating to funds available under the American Recovery and Reinvestment Act of 2009 (“Recovery Act”) through the Federal Office of Justice Programs, Bureau of Justice Assistance (“BJA”) for criminal justice programs, including \$2,565,061 for the Recovery Act-JAG formula program.

- b. Approve a delegation of authority to the County Executive, or designee, to negotiate, execute, modify, amend, and terminate Memorandums of Understanding (“MOU”) with 12 cities (Campbell, Cupertino, Gilroy, Los Gatos, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Sunnyvale, and Saratoga) relating to shared terms, such as disparity and administration costs, required to submit a joint application of the Recovery Act-JAG formula program, following approval by County Counsel as to form and legality, and approval by the Office of the County Executive. Delegation of authority is ongoing until the successful completion or close-out of the grant award.

- c. Approve recommendations relating to a spending plan for the County’s individual award amount of up to \$420,012 under the Recovery Act-JAG formula program.

- d. Approve delegation of authority to the County Executive, or designee, to submit a Joint Grant Application relating to the Recovery Act-JAG formula program, accept and implement the award, negotiate and execute amendments, provided the amendments have no general fund impact, and seek \$2,565,061 from the BJA for the expenditure period beginning with the award date to September 30, 2012. Delegation of authority is ongoing until the successful completion or close-out of the grant award.

- e. Approve a delegation of authority to the County Executive, or designee, to enter into MOUs with eligible local jurisdictions when solicitations are released by the BJA relating to the Recovery Act: JAG Pass-Through Program (from the State) and/or the FFY 2009 JAG Program; and to submit, accept, implement, or amend a grant application, provided the grant programs have no general fund impacts, with the BJA, Office of Justice Programs, and U.S. Department of Justice. Delegation is ongoing until the successful completion or close-out of the grant award.

FISCAL IMPLICATIONS

There is no negative impact to the County's General Fund. The County and 12 cities (identified under Recommended Action, subsection "a") are eligible for \$2,565,061 under the Recovery Act: JAG Formula Program. This is a one-time award amount. There are no match requirements. The program start period is March 1, 2009. There is a statutory four-year period to spend funds.

The County and 12 cities are certified as a "disparate jurisdiction" which means all the units of government must agree on an allocation process before submitting a joint grant application. The amount of funding shared from the cities to the County is 11% or \$263,887. Therefore, in addition to the County's eligible of \$166,091, the total amount available for programming is \$420,012.

During the past four years, the County has acted as the Lead Agency, or Fiscal Agent, to coordinate JAG grant applications and reports for eligible jurisdictions and has received allocations from each participating city to cover administrative costs. The County has offered to continue as the lead agency . San Jose has agreed to allocate 10% of its share to offset the administrative costs; other cities have agreed to 6%, for a total of \$222,445. Per agreement with the cities, the County is allowed discretion to shift funds between administration and programming categories, depending on needs.

CONTRACT HISTORY

As the Lead Agency, a dependent contractor assisted the County in the past with grant administration responsibilities, including fund distribution, program monitoring for participating jurisdictions, submitting quarterly financial reports and annual progress reports, and providing ongoing assistance to sub-grantees (participating cities).

REASONS FOR RECOMMENDATION

The stated purposes of the Recovery Act are: to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and to stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. An overview listing the types of funds available under the Recovery Act

through the Federal Office of Justice Programs (OJP) for the criminal justice programs is attached.

In addition, this report serves to satisfy the grant requirement that the local JAG application must be made public and an opportunity to comment provided to citizens and neighborhoods, or community organizations before it is submitted to the BJA. The grant solicitation and additional information from the Frequently Asked Questions are attached.

Recovery Act: JAG Formula Program

The awards for this program are authorized by the Recovery Act, signed into law by President Obama on February 17, 2009.

The Byrne (JAG) program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information-sharing initiatives. JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. Recovery JAG funds may not be expended outside of the JAG purpose areas (provided in more detail below).

The Recovery Act places great emphasis on accountability and transparency in the use of taxpayer dollars. JAG grantees will be required to report on two performance measures related to jobs: 1) Number of jobs created, and 2) Number of jobs retained. Job creation and retention are not mandatory usages of funds, but they are encouraged.

This JAG is a local formula grant program. It is calculated by the BJA based on total violent crimes reported by local jurisdictions to the FBI. Cities that are not part of this JAG either did not report at least three years of data to the FBI (over the last 10 years), or the level of crimes did not meet the threshold to be eligible for a direct JAG award of \$10,000. In the case the city's allocation was less than \$10,000, that money is provided to the state.

To qualify for this award, a unit of local government must submit an application by May 18, 2009. While only one unit of local government applies for and receives the award from the BJA, all eligible cities (12, listed below) and the County must agree upon who will act as the fiscal agent, whether there will be one single project or individual projects, and whether disparity and/or administrative rates will be applied.

If one agency does not collaborate, then all thirteen listed jurisdictions lose the money. A jurisdiction may also choose to turn down the award to benefit other jurisdictions. The 13 listed jurisdictions are: Cities of 1) Campbell, 2) Cupertino, 3) Gilroy, 4) Milpitas, 5) Morgan Hill, 6) Mountain View, 7) Palo Alto, 8) San Jose, 9) Santa Clara, 10) Sunnyvale, 11) Saratoga, 12) Town of Los Gatos, and 13) County of Santa Clara.

As soon as the Recovery Act: JAG was announced, being the current Applicant / Fiscal Agent for the regular JAG Formula programs, the Administration expeditiously convened a planning meeting with all eligible 12 jurisdictions to start the application process and terms of the joint Grant Application upon the release of the grant solicitation.

In addition, due to a very short turn-around time to apply, the Administration invited the Superior Court, the County's public safety and justice departments, the County Department of Alcohol and Drugs Services (DADS), and County Office of Women's Policy (OWP) to submit conceptual grant proposals that could benefit from this one-time grant funding and from sharing ideas amongst departments and teaming on proposals.

Terms of Agreement required under the joint Grant Application:

The JAG statute requires that if a city qualifies for one-and one-half times (150 percent) more funding or if multiple cities receive four times (400 percent) more funding than a county with concurrent jurisdiction, there is a funding disparity. In a situation where funding disparity exists, the units of local government within the disparate jurisdiction must agree upon an allocation process and submit a joint application. The sharing of funds was legislatively mandated since the funding formula tends to favor toward cities, and especially cities with a high volume of serious crimes, despite the fact that counties fund functions such as prosecution, indigent defense, probations, drug treatment and jails.

In the past, where the JAG Formula was formerly known as Local Law Enforcement Block Grant Program (LLEBG), the County and eligible cities entered an ongoing agreement on the sharing of the LLEBG funds in which the cities made available to the County 22.5% of the cities' eligible allocations for the purpose of funding eligible County program activities of direct benefit to to the cities' citizens. Each jurisdiction was responsible for contributing its own 10% cash match requirement.

When the LLEBG program was merged into the Byrne, resulting in the JAG Formula program, there was a 77% drop in funding (\$1.75 million in FFY02 to \$0.4 million in FFY07).

When considering the cumulative reductions and balancing them against the need for local responses, an 11% fund sharing is deemed reasonable. As such, for the FFY07 and FFY08 regular JAG Formula programs, the County and San Jose City agreed to share funds where San Jose City claimed 89% of its eligible allocation and shared 11% with the County.

Specifically certified as disparate regarding the Recovery Act JAG Formula program, the 12 eligible local jurisdictions and County must submit a joint Grant Application in order to draw down the total eligible award of \$2,565,061. In addition to the joint Grant Application, an MOU signed by the authorized representative of each 13 eligible jurisdictions, is also required. This MOU must specify the award distribution to each unit of local government and the purposes for which the funds will be used, and identify which jurisdiction will serve as the applicant/fiscal agent for joint funds.

Award distribution to each jurisdiction:

Consistent with prior years' agreements between the County and cities related to the LLEBG program, and between the County and San Jose City related to the recent JAG Formula programs, the Administration recommends to continue the sharing agreement that calls for the cities to claim 89% of its eligible allocation and share 11% of its allocation with the County.

Purpose Areas for which the funds can be used:

All units of local government within the disparate jurisdiction may choose to fund individual projects or combine eligible allocations to fund one joint project. At the application planning meeting on March 18, 2009, all local jurisdictions indicated interest in using their share of the JAG Formula Program to address and fund individual needs and priorities of their respective jurisdictions, in accordance with the JAG purpose areas.

See Background for details about how JAG funds can be used. A summary of a Spending Plan on how the cities plan to utilize their individual awards from the Recovery Act: JAG Formula Program is attached.

An exception is the Cities of Saratoga and Cupertino who have committed to giving the Sheriff their individual awards.

Applicant / Fiscal Agent

Consistent with the Recovery Act's emphasis on accountability and transparency, reporting requirements under Recovery Act grant programs will differ from and expand upon OJP's

standard reporting requirements for grants. Applicant will be responsible for monitoring of subawards under the grant in accordance with all applicable statutes, regulations, the White House: Office of Management and Budget's circulars, and guidelines, including the OJP Financial Guide. Primary recipient will be responsible for oversight of subawardee spending and monitoring of specific outcomes and benefits attributable to use of Recovery Act funds.

Other administrative responsibilities include distributing the funds; monitoring the award; annual performance measure and program assessment data; providing ongoing assistance to the cities of the funds, and closing-out the program upon its completion. Under the Recovery Act program, quarterly financial and performance measure reporting will be also required, and will be due within 10 calendar days after the end of each calendar quarter, starting July 10, 2009 until project completion on or before September 30, 2012.

To effectively implement the fiscal and performance measures in accordance with the Recovery Act requirements, it is recommended that the Administration be authorized to execute any documents necessary to successfully implement and complete the grant awards for the County and all 12 cities. These documents may include request(s) to the BJA to approve a no-cost extension of the project period, adjustment to the spending categories, and adjustment to project scope or goals.

	Eligible Allocation	11% disparate sharing	10% San Jose; 6% other cities Admin Costs	Individual Award	Note
Campbell City	\$39,462	(\$4,341)	(\$2,368)	\$32,753	
Cupertino City	\$34,549	(\$3,800)	(\$2,073)	\$28,676	<i>Dedicate funding to SHO</i>
Gilroy City	\$108,878	(\$11,977)	(\$6,533)	\$90,369	
Los Gatos City	\$16,958	(\$1,865)	(\$1,017)	\$14,075	
Milpitas City	\$88,117	(\$9,693)	(\$5,287)	\$73,137	
Morgan Hill City	\$32,331	(\$3,556)	(\$1,940)	\$26,835	
Mountain View City	\$133,126	(\$14,644)	(\$7,988)	\$110,495	
Palo Alto City	\$34,391	(\$3,783)	(\$2,063)	\$28,545	
San Jose City	\$1,713,528	(\$188,488)	(\$171,353)	\$1,353,687	
Santa Clara City	\$95,246	(\$10,477)	(\$5,715)	\$79,057	
Sunnyvale City	\$90,336	(\$9,937)	(\$5,420)	\$74,979	
Saratoga City	\$12,045	(\$1,325)	(\$723)	\$9,997	<i>Dedicate funding to SHO</i>
County of Santa Clara	\$166,091	\$263,887	(\$9,965)	\$420,012	
Admin to Applicant / Fiscal Agent (County)			(\$222,445)	\$222,445	
TOTAL	\$2,565,061			\$2,565,061	

Recommended Spending Plan utilizing County of Santa Clara's individual award: \$420,012

The length of the JAG program is from March 1, 2009 to September 30, 2012 since the award is made in the federal fiscal year of the federal appropriation and may be expended during the following three years for a total of four years. **A complete summary and details of all proposals received can be found in the attached "Conceptual Proposals to County's Individual Award."**

The Administration recommends the Recovery Act JAG funds be allocated to the following projects, based on sustainability, lack of funding availability from other sources, and departmental compliance with extensive reporting requirements:

- **Superior Court: Adult Drug and Mental Health Treatment Court (\$187,560):** This target "priority" population would be homeless, incarcerated veterans who are mentally ill and substance abusers returning from Iraq and Afghanistan, as well as those who are incarcerated and are veterans of other conflicts. This project could be sustained through the use of future JAG funds.
- **Superior Court: Juvenile Delinquent Court Project (\$60,000):** Model Court Project provides a large opportunity to evaluate the way the Delinquency Court does business and to adopt best practices, which will improve outcomes for minors. This project has proven successful in transforming the way business is done in Dependency Court. The District Attorney, Public Defender, County Office of Education, County Mental Health, Probation, Alternative Defender's Office have all indicated their support.
- **Sheriff: Cold Case Unit (\$123,082):** This project can be sustained into a second calendar year by utilizing funding contributed by the Cupertino and Saratoga cities (\$38,673). The Sheriff's Office also indicates their intention to pursue other grant funding sources to supplement available resources.
- **Department of Correction, Evaluation of the impact of programs on recidivism rates (\$49,370):** Reduced amount. Department requested \$75,000 -\$100,000. This one-time project is aligned with the Board of Supervisor' concerns to address inmates recidivism and jail over-crowding.

Total: \$420,012

Other Proposals:

The Administration recognizes that the other remaining proposals are also critical to the system and recommends the following:

- **County Executive's Office: Proposition 36 (\$313,812):** Funding to support voter-mandated services; residential treatment beds, outpatient slots, transitional housing units, direct client services by a Probation Community Worker, and drug testing costs. *Recommend possible submission for JAG (State) Pass-Throughs or the FFY09 JAG Formula Program.*
- **Public Defender's Office: Expungement Program for non-CalWORKs clients (\$132,966):** The project model has been shown to be cost effective during its implementation for CalWORKs clients. *Recommend possible submission for JAG (State) Pass-Throughs or the FFY09 JAG Formula Program.*
- **Probation Department: Study on juvenile justice recidivism (\$300,000):** Study on juvenile recidivism to assist the department with directing Juvenile Justice Crime Prevention Act (JJCPA) funds. *Recommend possible submission for JAG (State) Pass-Throughs or the FFY09 JAG Formula Program.*
- **South County Gang (\$123,082):** Analyze crime and manage shared intelligence leading to the apprehension and prosecution of gang members. This project could be benefitted funding received from either the JAG Pass-Through or FFY09 JAG Formula Program's allocations.

Total: \$869,860

BACKGROUND

In 2005, Congress merged the Byrne Grant Program with the LLEBG to establish the JAG Program. Since FFY05, the BJA has allocated funding to local units of government in the same way the LLEBG amount was allocated. Awards are made in the first fiscal year of the appropriation and may be expended during the following three years.

Significant differences between the Recovery JAG awards and regular JAG funds include, but are not limited to:

1. An emphasis on job creation and job retention;
2. Submission of particular Recovery certifications specified in the solicitation (e.g., an infrastructure certificate);

3. Time- specific quarterly progress reports due 10 days after the end of a quarter.
4. Specific Recovery Act performance measures; and 5) increased federal grant oversight.

Purpose Areas

JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice. The program has seven purpose areas under which funds may be awarded:

1. Law enforcement programs
2. Prosecution and court programs
3. Prevention and education programs
4. Corrections and community corrections programs.
5. Drug treatment programs
6. Planning, evaluation, and technology improvement programs.
7. Crime victim and witness programs (other than compensation.)

Funds must be used to supplement existing funds for program activities and cannot replace or supplant nonfederal funds that have been appropriated for the same purposes. JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety.

Prior Year's Accomplishments

As a component of a system-wide coordinated effort to decrease jail population, the FFY05 County's individual allocation was allocated to the OWP to identify and address women's needs in the criminal justice system. The FFY06 County's individual award was allocated to the OWP for expanding the Women's Advocacy Initiative to include female juvenile offenders through a Girls' Court. Subsequently, both the FFY07 and FYY08 County's individual awards were allocated to the OWP to support law enforcement purpose areas that may include certain jail sentencing alternatives, and projects with emerging issues or target populations (including incarcerated females) based on recommendations from the Board approved Gender Analysis report. A six-month status report on the Women's Advocacy Initiative will be presented to the Public Safety and Justice Committee on June 4, 2009.

CONSEQUENCES OF NEGATIVE ACTION

The due date for applying for Recovery JAG Formula funding is on May 18, 2009. Failure to complete the MOU and other application requirements by that date will result in the forfeiture

of the entire award of \$2,565,061.

STEPS FOLLOWING APPROVAL

As the Lead Agency for the aggregate of funds allocated to all 13 jurisdictions, the Administration will serve as the applicant and administrator of the program. Upon approval of delegation of authority, the Administration will complete the MOU as well as the joint application for Recovery Act JAG Formula program and submit them to the BJA for approval on or before May 18, 2009.

ATTACHMENTS

- Overview of the Recovery Act- Public Safety and Justice
- Spending Plan for the Single Joint Application
- Conceptual Proposals to County's Individual Award
- Solicitation for the Recovery Act: JAG Formula Program
- Recovery Act JAG Formula Program: Frequently Asked Questions