

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 13, 2018 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: CRIMINAL JUSTICE COMMISSION
Submitted For: PUBLIC SAFETY DEPARTMENT

I. EXECUTIVE BRIEF

Motion and Title: Staff seeks direction: regarding continuation of reentry services for ex-offenders under the Department of Public Safety and first-year funds for the Criminal Justice Commission's (CJC) new Frequent User's System Engagement (FUSE) Project without the release of annual Edward Byrne Memorial Justice Assistance Grant (JAG) program funds from the U.S. Department of Justice and Florida Department of Law Enforcement for the grant period October 1, 2017 through September 30, 2018 in the amount of \$393,550 for reentry services and \$100,000 for the FUSE Project.

Summary: Palm Beach County receives two sources of Edward Byrne Memorial Justice Assistance Grant (JAG) program funds, one comes directly from the U.S. Department of Justice (DOJ) and the second is a pass-through from the Florida Department of Law Enforcement (FDLE). These grants were budgeted in FY18 to support the Department of Public Safety's Adult and Juvenile Reentry Programs in the amount of \$393,550 and the Criminal Justice Commission's (CJC) new Frequent Users Systems Engagement (FUSE) Project in the amount of \$100,000. On July 25, 2017 Attorney General Sessions announced immigration compliance requirements for the JAG Programs that "will increase information sharing between federal, state and local law enforcement, ensuring that federal immigration authorities have the information they need to enforce immigration laws and keep our communities safe." On August 3, 2017, DOJ announced the formula allocations to state and local jurisdictions with Palm Beach County's DOJ allocation in the amount of \$146,506. A grant application, including a signed certificate of compliance with the new immigration rules, was submitted on August 30, 2017. FDLE also made application for the state's share of JAG funds that FDLE allocates to counties and cities. As of this date, all JAG funds have been put on hold by DOJ pending every state signing the new requirement that they comply with the immigration rules as announced by the Attorney General in July. FDLE has provided periodic updates to local jurisdictions receiving state JAG funds documenting their attempts to inform DOJ of the negative impact of holding JAG funds. The latest communication dated December 4, 2017 from FDLE Commissioner Swearingen to DOJ is attached to this agenda item. No funds have been released to any jurisdiction in the nation by DOJ. Some jurisdictions, such as Chicago, IL, and several California counties, have filed lawsuits against DOJ which are pending. The \$393,550 for the Reentry Programs was budgeted to fund two positions and juvenile and adult reentry services for ex-offenders leaving state prison and the county jail. Without the support of grant funds for the reentry program, the program will cease to exist: 1) Nineteen positions that work for partner agencies and two internal county positions that provide reentry services will be laid off; 2) 1,200 less clients will be served annually; 3) Important, annual client support services will no longer be available. These funds allow for the following essential reentry services: transitional housing, bus passes, vocational training and certification, identification assistance, family reunification counseling and events, educational classes, peer support groups, clothes and toiletries, tattoo removal, on the job training, substance abuse and mental health treatment services; and 4) Recidivism rates and costs will increase with an adverse impact on public safety. The \$100,000 for the FUSE Project was budgeted to fund services and housing for homeless persons frequently booked in the county jail. Without the support of grant funds for the FUSE Program, the targeted population of the 108 people who were admitted to the county jail three or more times in 2017 who also accessed homeless services in the county, will be reduced by 26% to approximately 80 people. No County matching funds are required for this grant. Countywide (LDC)

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Attachments:

- 1) July 25, 2017 Press Release from Attorney General Jeff Sessions
2) Certificate of Compliance with 8 U.S.C. Chapter 1373
3) Letter from FDLE Commissioner to DOJ

Recommended by: [Signature] 2-23-18
Department Director Date
Approved by: [Signature] 3/6/18
Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	_____*	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____ 0	_____ 0	_____ 0	_____ 0	_____ 0

Is Item Included In Current Budget? Yes ___ No ___
 Does this item include the use of federal funds? Yes X No _

Budget Account Exp No: Fund Department Unit Object
 Rev No: Fund Department Unit RevSc

B. Recommended Sources of Funds/Summary of Fiscal Impact:

*Fiscal impact is indeterminable at this time, it will depend on final outcome of grant funds and direction of the Board regarding continuation of services.

Departmental Fiscal Review: NDiaz 2/23/18

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Lisa Ponce 2/28/18
 OFMB 2/28 2/23/18

Don S. Jacobson 3/5/18
 Contract Administration 3/5/18

B. Legal Sufficiency:

JD Coffman 3/16/18
 Assistant County Attorney

C. Other Department Review:

Sepinok
 Department Director

This summary is not to be used as a basis for payment.

Continued from page 1...

Background and Justification: In the late 1980s through the mid-1990s, Congress created the Edward Byrne Memorial Formula Grant program (authorized by the Anti-Drug Abuse Act of 1988) and the Local Law Enforcement Block Grant (LLEBG) program, along with other grant programs, to assist state and local law enforcement in their efforts to control domestic crime. In 2005, the Violence Against Women and Department of Justice Reauthorization Act was enacted that combined the Byrne Formula Grant and LLEBG programs into the Edward Byrne Memorial Justice Assistance Grant (JAG) program. The program is named for New York City police officer Edward Byrne who was killed in the line of duty in 1988 while protecting an immigrant witness who agreed to testify against drug dealers. The JAG program is administered by the United States Department of Justice, Bureau of Justice Assistance, and provides federal criminal justice funding to state, local and tribal jurisdictions. JAG funds are awarded to state and local governments based on a statutorily defined formula. Each state's allocation is based on its proportion of the country's population and the state's proportion of the average total number of reported violent crimes (homicide, rape, robbery, and aggravated assault) for the last three years. After a state's allocation is calculated, 60% goes directly to the state government and the remaining 40% is awarded directly to units of local government in the state. State and local governments can use their JAG funding for programs or projects in one of seven purpose areas: (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; and (7) crime victim and witness programs (other than compensation). The Palm Beach County Commission designated the County's allocation of JAG funds to the CJC to fund new initiatives, such as, Drug Court and the Reentry Program.

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE

Tuesday, July 25, 2017

**Attorney General Sessions Announces Immigration Compliance Requirements for
Edward Byrne Memorial Justice Assistance Grant Programs**

The Department of Justice today posted a solicitation for the Edward Byrne Memorial Justice Assistance Grant Programs ("Byrne JAG"). Recipients for FY 2017 will be notified of new conditions of their grants that will increase information sharing between federal, state, and local law enforcement, ensuring that federal immigration authorities have the information they need to enforce immigration laws and keep our communities safe.

"So-called 'sanctuary' policies make all of us less safe because they intentionally undermine our laws and protect illegal aliens who have committed crimes," Attorney General Jeff Sessions said. "These policies also encourage illegal immigration and even human trafficking by perpetuating the lie that in certain cities, illegal aliens can live outside the law. This can have tragic consequences, like the 10 deaths we saw in San Antonio this weekend. As part of accomplishing the Department of Justice's top priority of reducing violent crime, we must encourage these 'sanctuary' jurisdictions to change their policies and partner with federal law enforcement to remove criminals. From now on, the Department will only provide Byrne JAG grants to cities and states that comply with federal law, allow federal immigration access to detention facilities, and provide 48 hours notice before they release an illegal alien wanted by federal authorities. This is consistent with long-established cooperative principles among law enforcement agencies. This is what the American people should be able to expect from their cities and states, and these long overdue requirements will help us take down MS-13 and other violent transnational gangs, and make our country safer."

Attachment(s):
Download Byrne JAG Grant Policy Backgrounder

Component(s):
Office of the Attorney General

Topic(s):
Grants
Immigration

Press Release Number:
17-826

Updated November 8, 2017

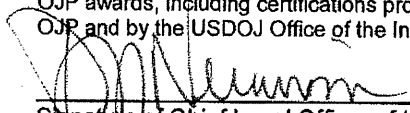
U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

- (1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
- (2) I have carefully reviewed 8 U.S.C. § 1373(a) and (b), including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information on citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. § 1373 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.
- (3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. § 1373, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2017 OJP program under which this certification is being submitted ("the FY 2017 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2017 OJP Program.
- (4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. § 901(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (i.e., one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
- (5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—
 - (a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2017 OJP Program; and
 - (b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2017 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. § 1373(a) or (b), whether imposed by a State or local government entity, -agency, or -official.
- (6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2017 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. § 1373(a); or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.



Signature of Chief Legal Officer of the Jurisdiction

Denise Marie Nieman

Printed Name of Chief Legal Officer

8-8-17

Date of Certification

County Attorney

Title of Chief Legal Officer of the Jurisdiction

Palm Beach County

Name of Applicant Government Entity (i.e., the applicant to the FY 2017 OJP Program identified below)

FY 2017 OJP Program: Byrne Justice Assistance Grant ("JAG") Program

December 4, 2017

Ms. Tracey Trautman
Acting Director
Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W.
Washington, DC 20531

Dear Acting Director Trautman:

The Florida Department of Law Enforcement (FDLE) has been applying for, receiving, and administering Byrne JAG funding on behalf of the state since 2000-01 and as such, has been responsible for assuring adherence to requirements for our annual federal award and subawards.

FDLE has submitted the state's FY17 Byrne JAG application to BJA and is currently working with the Chief Legal Officer and Governor's Office to complete the required certifications. As we continue to coordinate this matter, the enclosed certification is provided and attested to by me, as the Chief Executive of the Department designated by Florida Administrative Rule 11D-9 as the State Administering Agency (SAA) of Florida's Byrne JAG grant program.

FDLE is responsible for approximately 350 - 400 subawards annually for the JAG program, many of which are continuation projects for local governments that rely heavily on this funding. The delay in this year's JAG award has impacted approximately 74 grant-funded positions. These positions provide critical public safety services to Florida's citizens and the funding delay has resulted in the deferred hiring or termination of some employees. For positions that remain filled, subrecipients are doing so with the assumption funding will become available for reimbursement. However, it is uncertain whether these entities will be able to support these positions indefinitely. As a result, our agency provides this certification to notify BJA that we continue to stand ready to administer the FY17 program as we have done successfully for the past 16 years.

FDLE will assure through the receipt of subrecipient Certifications of Chief Legal Officers that no federal funds from the FY17 Byrne JAG award will be used for local or state programs or activities not compliant with 8 U.S.C. 1373. FDLE has robust grant administration protocols in place to provide reasonable assurance that federal grant funds are, and will continue to be, managed with due diligence and in accordance with state and federal laws, regulations, and program requirements. Any federal funds awarded by FDLE to subrecipients found to be non-compliant with these requirements will result in issuance of an FDLE management decision, Department efforts to remedy the issue(s), and/or recoupment of any affected disbursed funds.

Office of Executive Director
Post Office Box 1489, Tallahassee, Florida 32302-1489
(850) 410-7001
www.fdle.state.fl.us

Service • Integrity • Respect • Quality

Ms. Tracey Trautman
December 4, 2017
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Please contact Bureau Chief Petrina Herring at (850) 617-1264 with any questions regarding this matter. We look forward to your prompt response and receipt of Florida's FY17 Byrne JAG award.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Swearingen", with a long horizontal flourish extending to the right.

Richard L. Swearingen
Commissioner