



24-4393

DATE: March 12, 2024 (Item No. 22)

TO: Board of Supervisors

FROM: Sara H. Cody, MD, Health Officer and Director of Public Health

SUBJECT: California Department of Justice Tobacco Enforcement Grant

RECOMMENDED ACTION

Consider recommendations relating to the California Department of Justice Tobacco Enforcement Grant.

Possible action:

- a. Ratify Grant Application submitted by the Public Health Department to the California Department of Justice relating to funds to support local efforts to address illegal sales of tobacco products to minors and increase compliance with local tobacco control policies in the amount of \$1,216,296 for period November 1, 2023 through June 30, 2027.
- b. Approve Memorandum of Understanding with the California Department of Justice relating to grant funding to support local efforts to address illegal sales of tobacco products to minors and increase compliance with local tobacco control policies in an amount not to exceed \$1,216,296 for period November 1, 2023 through June 30, 2027, that has been reviewed and approved by County Counsel as to form and legality.

FISCAL IMPLICATIONS

Approval of the recommended actions will have no impact on the General Fund. The Public Health Department received an award letter from the California Department of Justice Tobacco Grant Program for Proposition 56 funds in the amount of \$1,216,296 for November 1, 2023 through June 30, 2027.

REASONS FOR RECOMMENDATION

Approved by voters in 2016, the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Prop. 56) increased taxes on cigarettes and other tobacco products by \$2.00 and established a Tobacco Enforcement Grant Program, administered by the California Department of Justice (DOJ). For Fiscal Year 2023-2024, an estimated \$24.6 million was made available statewide to support local enforcement efforts to reduce the illegal sale of

tobacco products to underage individuals through enforcement and compliance interventions.

In response to the funding opportunity, the County of Santa Clara Public Health Department (PHD) submitted a joint proposal in partnership with multiple enforcement agencies from across the county, including the County of Santa Clara Department of Environmental Health (DEH), County Sheriff's Office, and the cities of Campbell, Mountain View, Palo Alto, San Jose, Sunnyvale, and Santa Clara. Enforcement agencies contracted to do this work will conduct tobacco compliance checks at least twice per year at the point of sale (tobacco retail locations), aiming to check 480 retailers annually. In total, there are approximately 900 tobacco retailers located within these jurisdictions. All jurisdictions in the county were approached to participate in the joint proposal. Current funding received by PHD through Prop. 56 and Prop. 99 tobacco taxes is not allowed for local tobacco enforcement activities; therefore, this grant application fills a gap within our county.

The goal of the project is to reduce adolescent exposure and access to tobacco products, largely by reducing the percentage of youth who are able to access tobacco products through stores. This project solely focuses on tobacco retailer compliance strategies and does not include objectives or activities that focus on enforcement or penalties on youth or anyone in possession of tobacco products. The objectives to achieve these goals are as follows:

1. Conduct one to four tobacco decoy operations per year at licensed retailers, prioritizing retailers with previous tobacco sales violations, in each of the nine jurisdictions participating in the project, with a goal of checking at least 120 retailers per quarter or 480 annually.
2. Optimize the County's robust enforcement and compliance data tracking system, with a public facing component, that tracks compliance check outcomes from tobacco enforcement operations by store location, city, date, type of violation, and violation outcome.
3. Increase compliance with state and local tobacco retailing laws through tobacco retailer education.
4. Continue to convene the county tobacco prevention task force and conduct meetings to provide trainings and address tobacco-related issues.

The recommended action supports PHD's Strategic Plan priorities to engage partners and communities to improve community health. The underlying goals of these priorities are to reduce chronic disease prevalence and disparities, and to increase the number of healthy live years and reduce the burden of illness by establishing a more expansive and coordinated tobacco enforcement and compliance program to reduce youth access to tobacco products.

Reasons for Retroactive Request

In May 2023, DOJ released the notice of funding opportunity. In June 2023, PHD submitted its application and was notified of award in October 2023. In December 2023, PHD received the agreement from DOJ with a retroactive date of November 1, 2023, which precluded PHD from bringing the agreement to the Board prior to its effective date.

CHILD IMPACT

The recommended action will have a positive impact on children and youth through reducing their access and exposure to tobacco products.

SENIOR IMPACT

The recommended action will have a positive impact on seniors. A reduction in tobacco use leads to less secondhand smoke exposure.

SUSTAINABILITY IMPLICATIONS

The recommended action will have a positive impact on sustainability. A reduction in tobacco use leads to reduced impact from environmental impacts from tobacco waste, litter, and secondhand smoke impacts.

BACKGROUND

The mission of the County of Santa Clara Public Health Department's Tobacco-Free Communities (TFC) Program is to improve the health of all residents and the workforce in the county by reducing illness and premature death attributed to the use of tobacco products.

Nearly one in four teens in the county have vaped and 7.7% currently use e-cigarettes. More than half of teens who currently vape reported purchasing their own vaping product, with over one in five of this group saying they buy them directly from a store, primarily vape and tobacco shops. There more than 1,000 tobacco retailers in the county, more than half in San Jose alone, and one in four are within two blocks of a school.

Through the 2021-2024 DOJ grant award, the County was able to re-establish a robust compliance program, steadily increasing the number of stores checked each year: 127 stores in 2022; 359 stores in 2023; 68 stores as of February 1, 2024. Despite the compliance check activities occurring, PHD and DEH continues to see high illegal sales rates, showing a need for additional strategies to target problematic retailers and to use local tobacco retail permit ordinance penalties as further deterrents.

CONSEQUENCES OF NEGATIVE ACTION

The Public Health Department would not be able implement the California Department of Justice Tobacco Enforcement Grant.

STEPS FOLLOWING APPROVAL

The Clerk of the Board of Supervisors is requested to please obtain the President's and Clerk's original signature on two copies of the Memorandum of Understanding and notify Jasmine Luna of the Public Health Department. Upon execution by the DOJ, the Public Health Department will return one fully executed agreement packet to the Clerk of the Board.

ATTACHMENTS:

- Tobacco Grant Program - Request for Proposal - DOJ-PROP56-2023-24-1
- Tobacco Grant Program – Grant Proposal - DOJ-PROP56-2023-24-1
- Agreement with California Department of Justice
- Tobacco Grant Program – Grantee Handbook March 2023