



## Agenda Report

20-742

Agenda Date: 8/18/2020

### REPORT TO COUNCIL

#### SUBJECT

Action on the Approval of FY 17 Edward Byrne Memorial Justice Assistance Grant Funding and Related Budget Amendment [Council Pillar - Deliver and Enhance High Quality Efficient Services and Infrastructure]

#### BACKGROUND

In early 2005, the Bureau of Justice Administration (BJA) made the decision to combine the Byrne Formula Grant and the Local Law Enforcement Block Grant (LLEBG) Programs into the Edward Byrne Memorial Justice Assistance Grant (JAG) program. JAG is the primary provider of federal criminal justice funding to states and units of local government.

The JAG Program allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas:

- law enforcement programs;
- prosecution and court programs;
- prevention and education programs;
- corrections and community corrections programs;
- drug treatment and enforcement programs;
- planning, evaluation, and technology improvement programs;
- crime victim and witness programs (other than compensation); and,
- mental health programs and related law enforcement and corrections programs.

The Police Department has had the good fortune to be awarded \$72,925 in JAG funds the past five years (FY 12, \$14,855; FY 13, \$13,373; FY 14, \$15,847; FY 15, \$14,044; FY 16, \$14,806).

According to the FY 17 Solicitation, the Police Department was eligible to receive up to \$12,254. If funded, the Department originally had until September 30, 2019, to expend these dollars.

#### DISCUSSION

The Police Department submitted an Edward Byrne Justice Assistance Grant application 2017-H2626-CA-DJ on August 24, 2017. The application was for \$12,254 to purchase body armor vests, an infrared digital camera and license plate reader software. At the time of the submission, Mr. Rajeev Batra was the City Manager.

On October 4, 2017, a Department of Justice (DOJ) representative reached out to the Police Department for four items in connection with our pending FY 2017 JAG award - revised abstract, Body Armor Mandatory Wear certificate, Appendix I and Appendix II.

While we were communicating on the above items, Governor Brown approved SB54, the California Values Act, on October 5, 2017. This bill prohibits state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect or arrest persons for immigration enforcement purposes. As a result of this action, our City Attorney was unable to recommend the City Manager and/or Mayor to sign Appendix I, which specifically attested to the City's ability to comply with federal immigration law (abrogated by SB 54 in California). In November 2018, we asked the DOJ whether, as a result of SB 54, the City could simply delete that portion of Appendix I that was non-compliant, and the DOJ said that we could not. Meanwhile, the balance of the required items were submitted as requested, plus an update to the grant application to reflect Deanna J. Santana's appointment as City Manager beginning October 2, 2017.

On October 24, 2017, this item was on the City Council's agenda as a Consent Item. However, in light of the rapidly evolving situation, the City Manager pulled the item for future consideration due to the City's inability to sign the required Appendix I form.

Subsequently, the State of California initiated litigation against the federal government challenging the DOJ's grant requirement of compliance with federal immigration law. In short, the State argued that it was unconstitutionally coercive to condition release of federal police grant money on compliance with federal immigration law. The lower court agreed with the State and the federal government is appealing that ruling to the Ninth Circuit. While the appeal was pending, the DOJ issued new guidance and changed its stance on alteration of the grant documents in May 2019.

Because Certification of Compliance with 8 U.S.C. § 1373 was no longer required for California entities, and agencies were permitted to strikethrough the disputed portion of Appendix I, the City Attorney's Office indicated that it can approve the grant for signature by the City Executive. As a result, agencies were given 45 days to accept and sign the Grant Award and Appendix I. Mayor Lisa M. Gillmor and City Manager, Deanna J. Santana, signed the required documents on June 19, 2019.

The Special Conditions related to this grant were approved by DOJ on June 26, 2019. Meanwhile, the DOJ extended the time in which California entities had to expend the award by one year to September 30, 2020.

As the Police Department was getting prepared to close the grant, it was discovered this item never returned to Council for approval.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **FISCAL IMPACT**

Acceptance and appropriation of this Edward Byrne Memorial Justice Assistance Grant funding will support the Department's efforts to purchase body armor vests, an infrared digital camera and/or

license plate reader software.

Budget Amendment FY 2020/21			
	Current	Increase/ (Decrease)	Revised
<b>Police Department Operating Grant Trust Fund</b>			
<u>Revenues</u>			
Grant Funding	\$0	\$12,254	\$12,254
<u>Expenditure</u>			
FY 17 Edward Byrne Memorial Justice Assistance Grant	\$0	\$12,254	\$12,254

### **COORDINATION**

This report was coordinated with the Finance Department and the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

### **RECOMMENDATION**

1. Accept and approve the FY 17 Edward Byrne Memorial Justice Assistance Grant funding of \$12,254 to support the Police Department's efforts to become NIBRS compliant;
2. Approve the related FY 2020/21 budget amendment in the Police Operating Grant Trust Fund to carryover the budgeted revenue estimate of \$12,254 and Edward Byrne Memorial Justice Assistance Grant Program 2017 appropriation in the amount of \$12,254;
3. Authorize the City Manager to sign grant-related documents; and
4. Authorize the City Manager to execute purchase order(s), subject to the appropriation of funds, to directly support the Police Department's technical capacity for collecting, processing, analyzing and validating data to become NIBRS compliant.

Reviewed by: Patrick Nikolai, Chief of Police

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. October 24, 2017 City Council Meeting Agenda
2. Council Concurrent Minutes from October 24, 2017
3. FY 17 Edward Byrne Memorial Justice Assistance Grant Funding Allocation
4. FY 17 Edward Byrne Memorial Justice Assistance Grant Award