

DARYL FOX: Good afternoon, everyone. And welcome to today's webinar, "BJA FY 2022-2023 Byrne State Crisis Intervention Program Formula Solicitation," hosted by the Bureau of Justice Assistance. At this time, it's my pleasure to introduce Brenda Worthington, Associate Deputy Director with the Bureau of Justice Assistance, for some welcoming remarks and to begin the presentation. Brenda?

BRENDA WORTHINGTON: Good afternoon, everyone. And thank you so much for joining us today. We have a great deal of information to share with you including a few hot off the press updates. So, I'm going to start by going over the background on this new program and then I'll turn it over to my colleague Erin Pfeltz, who's a Division Chief in the BJA Program's Office, and she'll provide you with some in-depth details on the program and its requirements.

Once I pass it over to Erin, I will be answering some questions in the question and answer box. I will make my very best attempt to answer as many questions as possible but please accept my apologies if I don't get to every single question. Thank you so much in advance for your patience.

So as far as background, the Bipartisan Safer Communities Act was signed into law by President Biden on June 25th, 2022 to reduce gun violence, save lives, and to make progress towards keeping guns out of dangerous hands. This also seeks to ensure that emergency risk protection order programs are implemented in accordance with the Constitution and provide adequate due process protections. Next slide please.

The Bipartisan Safer Communities Act also made several changes to the Edward Byrne Memorial Justice Assistance Grant Act Statute. This is the JAG Program. First, a ninth program area was added to the JAG Statute for the implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts, drug courts, veterans courts, and extreme risk protection order programs. Minimum requirements for Extreme Risk Protection Order programs were also added. These minimum requirements, which Erin will cover later, are to ensure that these programs are implemented in accordance with the Constitution and provide adequate due process protection.

Another major change was the addition of civil proceedings in addition to the criminal justice language in the general authorization of the JAG Statute. Previously, JAG funds could only be used for criminal justice purposes. So this is a very important change, this addition of civil proceedings in the statute. The Act also added an annual report requirement and evaluation requirement for crisis intervention programs.

Now I know you might be wondering, am I on a JAG solicitation webinar? Wasn't this supposed to be for the new Byrne State Crisis Intervention Program Formula Solicitation, which we refer to as Byrne SCIP by the way. Well, this is why. The Act appropriated funds specifically for this new ninth program area in the JAG Statute but this is a completely separate appropriation from the JAG funds. The appropriation included a total of \$750 million, at a \$150 million per year for five years. In essence, while the Act points to a

particular piece of the JAG Statute, these funds are not JAG funds and have separate requirements. Before I pass it over to Erin, I want to share with you a very big hot off the press update. This morning, BJA released the FY 22 Extreme Risk Protection Order and Firearm Crisis Intervention Training and Technical Assistance Initiative Solicitation. This competitive solicitation has three categories and the goal of the solicitation is to develop and deliver training and technical assistance that will ensure the Byrne SCIP grantees and the sub-recipients can successfully implement, create, or enhance both programs, Emergency Risk Protection Order Programs, the State Crisis Intervention and court proceedings, and related gun violence reductions programs and initiatives. This TTA solicitation will also assist Byrne SCIP and JAG grantees with collecting the data elements for the statutorily required annual report and prepare for a potential participation in the evaluation program.

The solicitation has three separate categories and eligible applicants are national non-profit organizations, for-profit organizations and institutions of higher education that have expertise in managing training and technical assistance programs for evidence-based criminal justice needs. The Grants.gov deadline is on January 4th and JustGrants deadline is on January 9th. So now I'll take myself over to the question and answer box and go ahead and take it away, Erin.

ERIN PFELTZ: Thank you so much, Brenda. Next, we're going to go into a general overview of the Byrne SCIP solicitation itself. So Brenda did just cover the deadlines and requirements for the TTA solicitation. This slide is looking at the Byrne SCIP program itself which provides formula funds to implement state crisis intervention court proceedings and related programs. These could include Extreme Risk Protection Order Programs, working to keep guns out of the hands of those who pose a threat to themselves or others, mental health courts, drug courts, or veterans treatment courts. We'll go more deeply into the application submission in a few slides but please be aware of the deadlines for the submission, Monday, December 12th for the Grants.gov submission and Monday, December 19th for JustGrants. The project period for these awards will be 48 months, starting on October 1st, 2022 and running through September 30th, 2026. There will be an option to request a one-time 12-month extension at the end of the award if necessary.

A Frequently Asked Questions document is available on the BJA website, covers a range of questions and answers from the general solicitation down to detailed program requirements, and as Brenda noted, if you've already reviewed this FAQ, be aware that we have made recent updates. Those are incorporated into this presentation. We'll be covering those but wanted to make sure everybody was aware that these questions were available and that they've recently been updated.

Eligibility for the Byrne SCIP program mirrors the state JAG eligibility requirements. Only states may apply and they must designate a single state administering agency. Allocations are also based on the JAG formula program from the prior year for each year. So this solicitation combines the eligible allocations for both FY 22 and FY 23 Byrne SCIP based on the allocations from FY 21 and FY 22 JAG. Only one application per state should be

submitted and one award will be made covering both years. The four-year performance period reflects that both years inclusion.

Going forward, we expect that Byrne SCIP solicitations will only cover one year of funding at a time. The allocation chart is available on BJA's website. We'll go more deeply into the allocation elements a little bit later in the slide or a little bit later in this presentation. And for now, we're going to move into the application submission requirements. The application submission process includes the first step in Grants.gov, again, due by December 12th, submitting the SF-424 and SF-LLL. This solicitation is subject to Executive Order 12372. After the first step in Grants.gov, the full application must be submitted in JustGrants by December 19th. The Abstract, the Program Narratives discussing the preliminary project plan and the Budget Worksheet and Narrative would all be included in the JustGrants submission. The Proposal Narrative element, as I mentioned, will include a preliminary program plan. The final program plan and budget would be developed in coordination with the crisis intervention advisory board which we'll talk about a little bit later and must be approved by BJA post award.

During the JustGrants step, you'll also submit additional application elements if applicable including the Indirect Cost Rate Agreement, the Financial Management Questionnaire, the Research and Evaluation Statement, the Applicant Disclosure of Duplication in Cost Items and the Applicant Disclosure of DOJ High Risk Status if applicable.

This slide shows the contact information for application assistance, which is dependent on which step of the process you're in. So for technical assistance with the Grants.gov submission, you would contact the Grants.gov support hotline. For technical assistance with the JustGrants submission portion, contact the JustGrants Service Desk. And finally, for technical assistance with other solicitation requirements, you would contact the OJP Response Center.

We're now going to move from the solicitation mechanics into the program itself starting with allowable activities. In addition to being able to use funds to implement Extreme Risk Protection Order Programs, funds can also be used to support those programs through training and public awareness activities. For example, training on ERPO programs could focus on judiciary and court staff, first responders, or family members.

Funds can also be used for communication, education, and public awareness of ERPO programs including outreach to the community and stakeholders, development and distribution of outreach materials, and publication of best practices.

While we're going to go further into unallowable costs in a minute, it's important to note that funds may not be used either directly or indirectly to support the enactment, repeal, modification, or adoption of any law, regulation, or policy at any level of government.

And then finally, as Brenda mentioned in her introduction, when implementing an ERPO program with Byrne SCIP funds, there are four minimum requirements to cover. One, pre-deprivation and post-deprivation due process rights that prevent any violation or

infringements of the Constitution of the United States. Two, the right to be represented by counsel at no expense to the government. Three, pre-deprivation and post-deprivation, heightened evidentiary standards and proof. And finally four, penalties for abuse of the program.

In addition to implementing an ERPO program, funds may also be used for related programs or initiatives. This can include specialized court-based programs, such as drugs, mental health, and veterans treatment courts including such examples of gun courts, threat assessment training, technology or information sharing initiatives, risk assessment tools or case management programs or expanding capacity in existing programs. Funds can also be used for behavioral health deflection, including assertive community treatment, behavioral threat assessment, technology supports to help navigate mental health systems, mobile crisis units, peer support specialists and other supporting programs.

Funds can also be used for law enforcement agencies to safely secure, store, track, and return relinquished guns. And that could include gun locks in storage, software technology to track relinquished guns, and development or delivery of training or overtime for officers to attend training.

Next, we'll move into unallowable costs for the program. In addition to the unallowable costs identified in the DOJ Grants Financial Guide, award funds may not be used for the following: prizes, rewards, entertainment, trinkets, or any type of monetary incentive, client stipends, gift cards, food and beverage, unmanned aircraft systems, and any supplanting of state or local funds. Funds may also not be used for lobbying. In general, funds may not be used directly or indirectly to support the enactment, repeal, modification, or adoption of any law, regulation, or policy at any level of government. If at any point you're unsure whether an activity could be considered lobbying, please contact BJA for guidance and do not proceed without the express prior written approval from BJA.

Next, we'll move on to the program requirements for Byrne SCIP. The Crisis Intervention Advisory Board is a critical element to the program to inform and guide state initiatives. It must include representatives from law enforcement, the community, courts, prosecution, behavioral health providers, victim services, and legal counsel. And this is the minimum requirement for representation in the advisory board. States should ensure that representatives from the various potential beneficiaries are fairly included. Existing teams can meet the advisory board requirements if they contain the required representatives and we do ask that the Program Narrative describe the advisory board, its membership, and its governance structure. The advisory board is going to play a key role in development of the program and budget plans. The final program and budget plans must be submitted and approved by BJA post-award. This approval process will be done via a GAM in the JustGrants system and that should include a program plan outlining the overall goals for the use of funds and process for awarding subawards. The Budget Worksheet Narrative showing a clear breakdown of costs, a description of the Crisis Intervention Advisory Board, its membership and governance structure, and a letter from the board confirming that it coordinated with the recipient to develop the program and budget plan and that it

approves the submitted plan. Throughout the implementation of the project, advisory board approval will be required for any scope or budget update to the program.

All awards will be made with a withholding condition for the program and budget plan approval. This condition will allow obligations not to exceed \$20,000 for the sole purpose of developing the program and budget plan in coordination with the advisory board. Those obligations can be made retroactively to the program period start date of October 1st, 2022.

While preliminary plans might be included in the application, post award, all subawards must also be authorized by BJA via GAM. Attached to the GAM a letter on the letterhead of the recipient jurisdiction signed by the authorized representative that will summarize the selection process for the subawards included in the request, lists who will receive the subawards along with their proposed award amounts and project periods, and include a description of the subaward and the subaward budget.

The Byrne SCIP program also includes a requirement to cooperate with BJA and TTA providers to ensure programs are designed to protect the constitutional rights of individuals and to cooperate with statutorily required evaluation activities. Grant funds may be used to meet the specific requirements regarding program effectiveness and measures taken to safeguard constitutional rights and the use of grant funds for research partner are encouraged.

Direct administrative costs under the program are limited to 10% of the total award amount. Those are direct administrative costs. There is no statutory limitation on indirect costs. In the allocation sheet available on the BJA website, you will see the breakout of direct administrative costs for each award.

Unlike the JAG program, under Byrne SCIP, funds may only be obligated once awards have been offered and accepted and all holds removed with the exception for \$20,000 to develop the project and budget plans in coordination with the advisory board. Drawdowns must be based on plans for immediate disbursement or reimbursement and funds may not be drawn down in a lump sum, rather they need to be disbursed as costs are incurred.

Performance reporting for the Byrne SCIP program. The performance measures are available. The link is included here. This is also available on the BJA website. Quarterly reports will be submitted through BJA's performance measurement tool, the PMT, and semi-annual progress reports must be submitted through JustGrants and must contain the quarterly PMT reports for the applicable semi-annual reporting period. We did want to highlight that the semi-annual narrative questions for this program are different than those for other BJA programs.

The Byrne SCIP program does include a mandatory pass-through requirements. So under Byrne SCIP, states must pass through a 40% to local governments. The 40% pass-through is based on the funds available for direct local JAG awards in FY 21 and FY 22 proportionately decreased and for the FY 21 and FY 22 less than \$10,000 jurisdiction

amounts. States do have discretion on which projects and priorities are selected for subawards as informed by the Crisis Intervention Advisory Board and we're going to go into this in a little more detail in a second but the direct local pass-through amount is mandatory and not eligible for a waiver. And the less-than \$10,000 pass-through amount is eligible for a waiver.

The Direct Local Pass-Through Requirements. The portion of funds allocated for direct awards in the FY 21 and FY 22 JAG program proportionately decreased for Byrne SCIP, must be passed through to units of local government. This is not eligible for a waiver. States do have discretion on how the pass-through is done and are not required to pass it through to every unit of local government listed under the JAG program.

For the purpose of Byrne SCIP, a unit of local government is a city, county, township, town, or certain federally recognized Indian tribe, which could include a prosecutor's office, a public defender's office, a law enforcement agency, a public health agency, or a court system. And I wanted to highlight again here that all determinations on subawards and pass-throughs do have to involve the Crisis Intervention Advisory Board in their decisions and determinations.

The less-than \$10,000 pass-through consists of funds for those units of local government that were not eligible to receive a direct JAG award in FY 21 and FY 22. Again, proportionately decreased for Byrne SCIP. We call these less-than \$10,000 jurisdictions. And states must provide these funds to state courts to provide criminal justice and civil justice services for those jurisdictions within the state and/or subaward the funds to such jurisdictions. This requirement is eligible for a waiver. And we're going to talk through some of the options here in a second.

So here are some of the options for uses of the less-than \$10,000 pass-through. Again, as informed by the Crisis Intervention Advisory Board, there's a number of different ways this funding can be used. It could be used to fund one less-than \$10,000 jurisdiction or multiple less-than \$10,000 jurisdictions. It could fund state courts that provide criminal justice and civil justice services to those jurisdictions within the state. It could do a combination of funding the less-than \$10,000 jurisdictions and the state courts. Or a waiver can be requested to retain those funds or a portion of it at the state level for a project that would directly benefit those jurisdictions. And then the final option, of course, is any combination of one to five above.

So for the option of requesting a waiver that does require BJA approval, post award via a GAM. And it would have to meet these two elements, first, that the state-administered project will directly benefit a unit of local government. And that one or more units of local government voluntarily agrees and acknowledges that the funds would benefit them and that they agree with that funding choice as in the best interest of the local government unit.

As the final part of this presentation, we're going to walk through some available resources and then move on to any questions that we've had. For program developments, a number

of DOJ and DOJ-funded resources are available that we encourage you to review. These links should be available once we send out the slides and there's a number of options here to look at. Resources are also available on application elements and submission with reference to DOJ Grants Financial Guide, the Financial Capability Questionnaire, the OJP Applicant Resource Guide also provides a lot of information on submitting an application. And then finally, the help desk numbers that we covered earlier are an important resource for finding assistance. And finally with that, I'm going to turn things back over to Brenda to cover any questions that have come in.

BRENDA WORTHINGTON: Thanks so much, Erin. And I'm feverishly trying to keep up, so hopefully I can answer some of these questions verbally. So, some of the earlier questions that came in were about anticipated future funding for this program. So the current funding based on the appropriation in the Bipartisan Safer Communities Act is for five fiscal years at \$150 million per year through FY 26. So any funding beyond that would depend on the availability of an additional appropriation.

So we did get a question and I know there was some request for some clarity on this, on whether the advisory board must be formed by the time the application is submitted. So we definitely understand that creating this advisory board and implementing this advisory board may not be something that can be completed by the time of the application. So this application can definitely be submitted with the overview information we requested in the intent of the program. But the understanding is, of course, that post award, the program plans and budget plans that were coordinated and approved by this board will then be submitted in order to receive access to the funding.

Now, as far as the question on legal counsel as part of the advisory board, so one thing I do want to note is that these board members are absolute minimum requirement. So, technically, I mean, if you have one attorney or one legal counsel on your advisory board, that meets the requirement, but the goal was for this to be in the absolute minimum requirement. So you do have discretion. However, we do recommend that you all make sure that your stakeholders are fairly represented on your board.

Let's see. Now I'm going back to some other questions. "Can the state subaward apportion of the grant to a nonprofit?" The answer to that question is yes. The state may subaward their state share to a nonprofit. However, the other pass-through requirements still apply here. They go to the local government.

Let's see. I'm still looking through. I kind of wish we had audio here so that some people get to just ask. "Can the states use their SAC as a research partner rather than contracting with an external partner?" Yes, that is definitely allowable. We received a question on whether or not group violence intervention would be eligible as a related activity. That's something we would just need a little bit more additional information on during the application phase and we can definitely get back to you on that, Tricia.

So thank you for that question. Let's see, what else do I have? Clarified that. So, the question was, "Is an award to a state court system, which turns funds to local court

programs, considered a local subaward?" No, the funding would actually have to go to the unit of local government. However, under the less-than \$10,000 pass-through, the state courts is an allowable pass-through item.

Yes. The new permissible purpose under JAG, recipients of JAG funds can use JAG funds for this new program area of JAG.

"How do we determine what localities are the less-than \$10,000 pass-through?" This is a list that is provided to state administering agencies each year. These are all of the jurisdictions that did not meet that threshold to receive a direct award of \$10,000 or more based on the statute.

"What is meant by a community member of the advisory board that is a member or members of the community?"

The question is, "Would the research partner funding need to come from the 10% admin or could it come from the larger state project allocations?"

So the administrative funds that direct administrative cut is for the implementation of the grant requirement. So, a good way to look at that is your grant management, your grant monitoring of subawards, your contract activity. So if the research partner is a programmatic purpose of the awards and it does not need to come under the admin fund, it just depends on what the purpose of the project is. And I believe the SAC question falls within that question as well.

Yes. This PowerPoint will definitely be made available. We'll be putting them on the web as soon as possible. Yes, we'll be putting them on the web shortly.

There's a question here on SAM.gov registration that's pending renewal. So feel free to reach out to us and we can try to get you help with that. But we definitely won't not allow someone to get in because their SAM registration depending on renewal. We understand that there is a backlog at GSA for getting these registrations renewed.

As far as vehicles, yes, it is possible. For example, one of the items that we mentioned was a mobile crisis unit. So, that is definitely an allowability. For the effective timing for states to submit the program and budget and how long BJA anticipates, of course we understand that this process might take some time. I think 60 to 90 days would be preferable for us, but, of course, we'd want that to come in as soon as possible. Regarding the allowability for the cost for the advisory board start-up, so that is intended to provide funding to be able to get things up and running and get the program and the budget plan developed and approved. We definitely understand that that does take quite a bit of personnel time, and resources, and we wanted to be able to ensure that states were able to charge back for those funds.

So the less-than \$10,000 list for each fiscal year is something that goes to the state administering agency. The FAA budgets for their 10% administrative funds that would be

subtracted from the—I'm not sure if I understand your question, Jim, but I'm happy to follow up with you after the webinar.

Yes, juvenile programs for crisis intervention can be funded. The names of the nonprofits for potential subawards from the state do not need to be identified in the application. However, there is a requirement, and this is unlike the JAG funds. There is a requirement for all subawards to receive expressed prior approval from BJA, and this is something that's consistent with our other grant programs. However, the difference here is that in JAG, the subawards are authorized by statute, and in this case the subawards need to be approved, similar to other awards.

As far as the difference between a disallowed management fee and an allowable admin fee, administrative costs for direct administrative costs are allowable. And that would include, for example, costs that you're able to directly associate with the performance of the award, such as a grant manager time to conduct grant monitoring for subrecipients. But indirect costs are also allowable, and agencies are allowed to use their full indirect cost rate consistent with 2 CFR 200, or if they elect to do these amendments, 10% rate consistent with 2 CFR 200. And that that's fine, too.

So the less-than \$10,000 list includes the FY 21 and FY 22 JAG less-than \$10,000 because this solicitation relies on those allocations as part of the formula.

Question here is, "Can you use your existing JAG advisory board as the State Crisis Intervention Board?" And the answer is yes, as long as it includes all of those minimum individuals.

So there's a question here on the annual audit report requirement. I do not have that. That, I believe, is your A-133 single audit, and that is, if applicable, and that's based on the amount of grant funding received per fiscal year.

"Can offices of gun violence be funded or only particular programs that relate specifically to crisis intervention?" So for that question, I mean, the purpose of the program has to be for crisis intervention. But that could include personnel working on a crisis intervention program in a gun violence office. I'm hoping I answered that one as the question was intended.

Question here is, "What sort of the expansion of specialized courts can be funded and how to make sure there are no supplanting issues is expanding on something funded by the state?"

So that brings up a very, very good point on the supplanting prohibitions. Supplanting is a deliberate act to replace state funds with federal funds. So for example, if you had a state budget to hire 50 police officers, and this is just our general example used in the Financial Guide. If you have your state budget to hire 50 police officers and you receive a federal grant for 50 police officers, but you only use the federal funds and hire 50 instead of hiring hundreds, then that would be supplanting. So it's a very deliberate act. So I think, for this

question here on supplanting, it's just making sure that the activities and expansion is supplementing and is in addition to what your state is currently funding.

This question, "Are the subaward itemized budgets and program narratives required to be submitted to BJA for prior approval? Or does the overall list of subaward grantees in total amount suffice?" The subawards budget will be required as part of the approval process. But you can submit these in bulk in a single GAM. So, for any of you that work on the Project Safe Neighborhoods Program, you'll be familiar with that process where you can submit several at the same time for us to review and sign off on.

The next question here is, "Is there a pass-through percentage required as in JAG? So there is a pass-through requirement and that is detailed in our allocation sheets for each state. So there is a mandatory direct local pass-through requirement. And then there is the less-than \$10,000 pass-through requirement that is eligible for a waiver.

"What should states seeking to implement ERPO laws submit to show they meet the due process requirements in the law?" So just a little bit of clarity there, so just as a reminder, no funds can be used to modify laws, but for implementing ERPO programs and showing the evidence that they need for due process requirements, that's something that our Training and Technical Assistance provider will be working with you closely on.

I've gotten to the end of our list. I tried to answer as many as possible. If there are follow-up questions, please feel free to contact our OJP Response Center. They do provide excellent assistance with questions that come in for our solicitations. Also, you're welcome to follow up with me or with Erin. We're really happy to help and answer any questions you might have. Daryl?

DARYL FOX: Thanks so much, Brenda and Erin. Just a reminder, it's been mentioned several times, we want to reiterate that the PowerPoint recording and slides will be posted to the BJA website, usually about seven to ten business days. That'll be there for you to reference as you look back on things. And once again, as mentioned, the OJP Response Center, if you have any follow-up questions about the solicitation itself, you can contact them directly. So with that, on behalf of the Bureau of Justice Assistance, our panelists, we want to thank you for joining today's webinar. This will end today's presentation.