



April 16, 2020

Department of Justice's Coronavirus Emergency Supplemental Funding Program

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136) provided \$850 million to the Department of Justice (DOJ) to be awarded to state and local governments to help them “prevent, prepare for, and respond to coronavirus, domestically or internationally.” DOJ is awarding this funding under its Coronavirus Emergency Supplemental Funding (CESF) program, which is being administered by the Bureau of Justice Assistance (BJA).

Per the CARES Act, the \$850 million is to be allocated “pursuant to the formula allocation (adjusted in proportion to the relative amounts statutorily designated therefor) that was used in fiscal year 2019 for the Edward Byrne Memorial Justice Assistance Grant [JAG] program.” However, the act also states that “allocation provisions under sections 505(a) through (e) ... of the [Omnibus Crime Control and Safe Streets Acts of 1968, P.L. 90-351], shall not apply to the amount provided under this heading in this Act.”

In effect, while the JAG program formula was used to determine which state and local governments are eligible to receive funding under the CESF program and the amount of their allocation, many of the requirements of the JAG program do not apply to funds awarded under the CESF program.

Brief Overview of the JAG Formula

Under the JAG formula, each state's allocation is based on its population and the number of reported violent crimes in the state. Specifically, half of a state's allocation is based on the state's respective share of the U.S. population. The other half is based on the state's respective share of the average number of violent crimes reported to the Federal Bureau of Investigation for the three most recent years for which data are available. Under current law, each state is guaranteed to receive no less than 0.25% of the amount appropriated for the JAG program in a given fiscal year (i.e., the minimum allocation). When calculating allocations, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam are considered to be states; American Samoa and the Northern Mariana Islands are considered to be one “state,” and their allocation is split with 67% going to American Samoa and 33% going to the Northern Mariana Islands.

After each state's allocation is determined, 40% of it is directly awarded to units of local government in the state (this does not occur in the District of Columbia or the territories). Awards to units of local government, which includes Indian tribes that have law enforcement responsibilities, are based on the jurisdiction's proportion of

the three-year average number of violent crimes committed in its respective state. Only units of local government that would receive \$10,000 or more are eligible for a direct allocation. The balance of funds not awarded directly to units of local government is administered by the state and must be distributed to the state police department or to units of local government that were not eligible to receive a direct award from BJA. Also, each state is required to “pass through” to units of local government a certain percentage of the funds directly awarded to the state. The pass-through percentage is calculated as the ratio of the total amount of state expenditures on criminal justice for the most recent fiscal year to the total amount of expenditures on criminal justice by both the state and all units of local government in the past fiscal year. Pass-through percentages for each state are calculated by the Bureau of Justice Statistics using data on state and government expenditures collected by the U.S. Census Bureau and grant award data from the Federal Award Assistance Data System.

Disparate Allocation

In some instances, a unit of local government or multiple units of local government are required to collaborate on a single joint award with the county. This happens when BJA certifies that there is a “disparate allocation,” meaning that one city qualifies for an amount that is one-and-a-half times more than the amount for the county with concurrent jurisdiction, or when the total amount cities in a single county qualify for is four-times more than the amount for the county. The unit or units of local government and county representatives must sign and submit a memorandum of understanding stating that they all agree on how the joint award, which is the sum of all of the individual awards, will be allocated and used.

For more information on the JAG program, see CRS In Focus IF10691, *The Edward Byrne Memorial Justice Assistance Grant (JAG) Program*.

The CESF Program

BJA has released calculated allocations for state and local governments and is accepting applications for grants until May 29, 2020. Grants under this program are not automatically awarded to state and local governments; they have to apply to receive funding. However, grants are not competitive, so if an eligible jurisdiction submits a fundable application it is to receive a grant.

Grants under the CESF can be used for, *but are not limited to*, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies

(such as gloves, masks, sanitizer), training, travel expenses, and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers. BJA is to determine whether requests to spend CESF funding on projects or purchases other than those listed are allowable under the program (i.e., do they help the applicant prevent, prepare for, and respond to Coronavirus?).

Allocations under the CESF Program

All states, the District of Columbia, and each of the five territories are eligible to receive funding under the CESF program because they received an FY2019 JAG award. Only local governments that were eligible to receive a direct award from BJA under the FY2019 JAG program are eligible to receive grants under the CESF program.

With a few exceptions, allocations were calculated by multiplying eligible jurisdictions' FY2019 JAG allocations by 3.22196, which was how many times greater the CESF appropriation was than the amount that was available to be allocated under the JAG program for FY2019 (\$263.8 million).

Under the JAG program, state governments receive a base amount equal to 60% of the state's calculated allocation plus an amount equal to the total for all local jurisdictions in the state whose calculated allocations were less than \$10,000. Under the CESF program, a state's allocation is equal to its FY2019 base allocation multiplied by 3.22196 plus \$807,876. The additional \$807,876 each state received is equal to the total amount allocated to jurisdictions that received less than \$10,000 for FY2019 (\$20.4 million) multiplied by 3.22196 with an amount subtracted for awards to counties that were not eligible for a direct award for FY2019 (see below) and equally divided between the 50 states, the District of Columbia, and the five territories. Under the CESF program, states are not required to award the \$807,876 they receive to jurisdictions that are not eligible to apply for a direct award from BJA. Also, the pass-through requirement under the JAG program does not apply to CESF funds.

Some counties with disparate allocations in FY2019 are not eligible to receive any funding because they did not report any violent crime data, yet they had expenses related to the operation of the criminal justice system, such as operating a jail or funding a district attorney's office (so-called *zero counties*). Under the JAG program, these counties would typically receive some funding or would benefit from a JAG-funded program or project because they would have to apply for a joint award with other cities in the county. However, under the CESF program the disparate allocation requirement is not applicable. In order to ensure that *zero*

counties received funding under the CESF program, BJA took an amount equal to what was awarded to jurisdictions that received less than \$10,000 under the FY2019 JAG program (\$20.4 million) and distributed it equally among the 351 *zero counties*, resulting in an award of \$58,008 for each of these counties.

CESF Allocation Calculations

CESF appropriation: \$850.0 million

Amount available for allocation for FY2019 through JAG: \$263.8 million = \$160.7 million in state base funding + \$20.4 million for jurisdictions that received less than \$10,000 + \$82.7 million in direct awards to local jurisdictions.

Plus-up factor: CESF appropriation / amount available for allocation for FY2019 through JAG \approx 3.22196.

State allocations: (state's FY2019 JAG base funding * 3.22196) + ((((\$20.4 million * 3.22196) - \$20.4 million) / 56).

Non-zero county local jurisdiction allocations: FY2019 JAG allocation * 3.22196

Zero county allocations: \$20.4 million / 351 zero counties.

Helpful Websites

- **State CESF allocations:** <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fy20-cesf-state-allocations.pdf>
- **Local governments' CESF allocations:** <https://bja.ojp.gov/program/fy20-cesf-allocations>
- **CESF program grant solicitation:** <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf>
- **CESF awards:** <https://bja.ojp.gov/funding/fy20-cesf-awards>

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