

July 7, 2011

2011-503.1

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

This letter report presents a review conducted by the Bureau of State Audits (bureau) concerning the California Emergency Management Agency's progress in spending funds provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act) for the Edward Byrne Memorial Justice Assistance Grant (JAG) program before the JAG Recovery Act grant expires. On February 17, 2009, the federal government enacted the Recovery Act, in part, to promote economic recovery and stabilize state and local government budgets. The U.S. Department of Justice awarded \$136 million of Recovery Act funds to the California Emergency Management Agency (Cal EMA) for the JAG program. In May 2010 the bureau issued an audit report titled *California Emergency Management Agency: Despite Receiving \$136 Million in Recovery Act Funds in June 2009, It Only Recently Began Awarding These Funds and Lacks Plans to Monitor Their Use*. Our report concluded that Cal EMA was moderately prepared to administer the JAG Recovery Act program award, citing that by March 11, 2010, it had awarded only \$35 million in subgrants, or 26 percent, of its Recovery Act grant. We recommended that as soon as possible, Cal EMA should execute subgrant agreements with subrecipients so California can more fully realize the benefits of the Recovery Act funds. This letter concludes that Cal EMA appears to have sufficient time to spend its JAG Recovery Act funds before its federal grant expires on February 28, 2013, but needs to closely monitor subrecipients as the end of the grant approaches.

Cal EMA Appears to Be on Track to Spend Its JAG Recovery Act Funds Before the Federal Grant Expires

Based on our review of Cal EMA's disbursements of JAG Recovery Act funds to subrecipients as of May 27, 2011, Cal EMA appears to have sufficient time to spend the funds to reimburse programs that make up about 55 percent of its federal grant. However, Cal EMA needs to better evaluate subrecipients' use of JAG Recovery Act funds to ensure the remaining 45 percent of the funds are spent before the federal grant expires on February 28, 2013, and the funds are no longer available. As of May 27, 2011, Cal EMA has awarded \$133 million to 229 subrecipients and set aside \$1.2 million for administrative costs. According to the chief of the Drug Enforcement Section (section chief), JAG Recovery Act funds were awarded to three existing and seven new programs. Subrecipients within each program have different end dates for their awards. Those end dates range from September 30, 2011, to December 31, 2012. According to the chief of the Public Safety and Victims Services Division (division chief), Cal EMA has recently reallocated the remaining \$1.4 million in JAG Recovery Act funds among the superior courts participating in the Parolee Re-entry Courts Program because the subrecipient originally targeted to receive the funds decided to terminate its participation in the program.

The Table shows the programs funded by the JAG Recovery Act funds and the amounts obligated and yet to be spent for each program.

Table
Recovery Act Justice Assistance Grant Funds Spent as of May 27, 2011

PROGRAMS AND AGREEMENTS	GRANT END DATE	OBLIGATED AMOUNT	PAID AMOUNT	BALANCE	PERCENT REMAINING
Anti-drug abuse enforcement team	2/28/12	\$19,750,000	\$7,567,095	\$12,182,905	62%
Firearms trafficking task force	6/30/12	3,300,000	1,064,496	2,235,504	68
California multi-jurisdictional methamphetamine enforcement team	2/28/12	4,500,000	2,275,651	2,224,349	49
Regional anti-gang intelligence-led policing	9/30/12	2,100,000	746,555	1,353,445	64
Anti-human trafficking task force	9/30/12	3,750,000	894,381	2,855,619	76
Drug task force training	5/31/12	150,000	63,917	86,083	57
Victim information and notification everyday	4/30/12	1,500,000	1,015,629	484,371	32
Offender treatment	9/30/11	44,400,000	35,727,652	8,672,348	20
Interagency agreement with the California Department of Alcohol and Drug Program	9/30/10	49,795	49,795	0	0
Evidence-based probation supervision	9/30/12	44,576,000	13,238,611	31,337,389	70
Parole re-entry courts	9/30/12	8,006,248	643,104	7,363,144	92
Interagency agreement with Administrative Office of the Courts	12/31/12	924,000	273,133	650,867	70
Totals		\$133,006,043	\$63,560,019	\$69,446,024	52%

Sources: California Emergency Management Agency Automated Ledger System and American Recovery and Reinvestment Act of 2009 Site Visit Plan for fiscal year 2009–10.

As the Table shows, as of May 27, 2011, subrecipients have spent \$63.6 million, which constitutes 48 percent of the total JAG Recovery Act grant. Payments to subrecipients are reimbursements for their program expenditures and are paid when subrecipients file quarterly expenditure reports.

Cal EMA JAG program managers explain that there are different reasons for the slow expenditure rates within the new and existing programs. For example, according to the section chief, seven of the 10 programs funded through JAG Recovery Act funds are new and many have encountered difficulties starting up. One of those new programs, the Parole Re-entry Courts Program, remains about 92 percent unspent; however, according to the chief of the public safety branch (branch chief) that is due to the program being new and requiring the establishment of an agreement with the California Department of Corrections and Rehabilitation (Corrections). The Administrative Office of the Courts signed the final memorandum of understanding for the establishment and operation of the Parole Re-entry Courts Program with Corrections on December 1, 2010. The other three programs that receive JAG Recovery Act funds are enhancement programs that supplement the funds subrecipients are already receiving from annual JAG program grants. According to the section chief, Cal EMA is not concerned that subrecipients within these three programs have not spent funds in proportion to the amount of time that each has spent on their respective grant. As of May 2011, many subrecipients are refraining from spending the JAG Recovery Act funds as they are waiting for the new budget to pass. If the budget shows a reduction in the non-Recovery Act JAG funding, subrecipients have indicated to Cal EMA they will rely on JAG Recovery Act funding to save positions instead of laying off staff.

Cal EMA Will Need to Closely Monitor Some Subrecipients to Ensure They Spend All JAG Recovery Act Funds

Cal EMA has allocated about 55 percent of the JAG Recovery Act funds to programs with subgrants that have ending dates sufficiently in advance of the February 28, 2013, expiration date of Cal EMA's federal grant as to allow Cal EMA enough time to reallocate the federal funds to other programs, if needed, before the funds are no longer available. However, the subgrants to which Cal EMA has allocated the remaining 45 percent of its JAG Recovery Act funds have ending dates closer to the expiration of the federal grant and require closer monitoring to ensure that all of the funds are used and do not revert. According to the branch chief, Cal EMA staff use three different monitoring tools to track the spending progress of the JAG Recovery Act funding: site visits and accompanying reports, summary expenditure reports from its Automated Ledger System (ledger system), and a schedule showing the dates of the last billings for all subrecipients. However, Cal EMA could not provide compelling evidence that it uses two of these three tools in a manner that provides confidence that all of the funds will be used before the federal grant expires.

Although site visit reports can serve as a valuable tool for determining subrecipients' spending progress, Cal EMA has not always used them in the most effective way. According to the division chief, as of June 22, 2011, Cal EMA staff completed site visits for 210 subrecipients and planned to visit all 229 subrecipients by June 30, 2011. The division chief explained that completing all site visits by June 30 will aid Cal EMA in determining which subgrants need to be reallocated to other subrecipients, if necessary, to ensure all JAG Recovery Act funds are spent prior to the expiration date of the Recovery Act grant. When Cal EMA staff conduct a site visit, they complete a six page site visit report, which includes a number of questions addressing issues related to funding and budget. However, Cal EMA lacks written guidelines that provide instructions as to how program specialists should answer these questions and what the responses should be based on, leaving room for different interpretations. For example, we found that in some instances the program specialists' responses to these questions in the reports do not reflect the status of the subrecipients' progress in spending the funds. Specifically, three subrecipients had 100 percent, 93 percent and 88 percent, respectively, of their awards remaining to be spent halfway through the grant period, but their site visit reports indicated that the project expenditure rate was commensurate with the elapsed period of the grant. The section chief explained that in those cases staff may base their responses on subrecipients' assertions that they have incurred expenditures that can be claimed against the award, but have not yet billed Cal EMA for them. However, Cal EMA's site visit reports for those three subrecipients did not include any comments reflecting such a condition. Finally, Cal EMA conducts site visits for most of the subrecipients only once during the life of the grant, which further limits their effectiveness for long-term monitoring of expenditure progress.

Although the section chief asserts that the reports from Cal EMA's ledger system are the main tool for reviewing subrecipients' progress in spending their subgrants, she could not provide copies of the reports to demonstrate this review process. According to the section chief, she and the specialists retrieve reports from the ledger system on a quarterly basis, after the accounting department updates the amounts following the last billing cycle. Each report shows budgeted expenditures, actual expenditures, and the remaining balance in three separate categories: personal services, operations, and equipment. The section chief explained that the specialists can use the information from the summary reports to judge the rate at which subrecipients will spend budgeted amounts throughout the term of the grant. She also stated that she separately reviews the amounts that subrecipients have claimed for reimbursement and compares those amounts to the total award and the time remaining on the grant. If she is concerned about the lack of spending among any of the subrecipients, she meets

with the program specialist who manages the award for that particular subrecipient and, if necessary, they will schedule a conference call with the subrecipient. According to the branch chief, this is largely an informal process that is not documented. She further stated that because the reviews are currently informal, some specialists may retain copies of the reports while others may not. However, the section chief was unable to provide us copies of any previously reviewed reports.

Cal EMA could not provide written guidance instructing its program specialists on how to judge subrecipients' spending progress on their subgrant funds. According to the section chief, she and her staff rely on their experience and regular communication to ensure that the subrecipients they are overseeing are able to expend the full amount of the award within the allowed period of time. However, without written policies or guidance to clearly communicate management's expectations to the specialists and help ensure consistent monitoring of subrecipients' progress in expending Recovery Act funds, there is an increased risk that funds will not be used before their reversion date.

Lastly, according to the branch chief, Cal EMA uses a schedule that lists the date of the last billing by all of the subrecipients to identify those subrecipients that are late in submitting their requests for reimbursement, which they must do on a quarterly basis even if they did not incur any qualifying expenditures during that period. According to the branch chief, managers overseeing the JAG Recovery Act awards at Cal EMA review this schedule every three months after the accounting department processes quarterly billings. If some subrecipients have not submitted their request for reimbursement on time, managers direct specialists to follow up with those subrecipients. To support their statements, Cal EMA management provided a copy of the schedule that was generated after the last billing cycle in March 2011.

Cal EMA Has Identified Steps It Can Take That Are Designed to Ensure All JAG Recovery Act Funds Are Used

According to the section chief, Cal EMA does everything possible to ensure that subrecipients are spending their JAG Recovery Act funds in the allotted time and have only had to resort to taking back the award in a very few cases. For instance, Cal EMA may reallocate the Recovery Act award if the subrecipient has determined that its objective is complete and a balance of funds remain, or if it has determined that it cannot continue or desires not to continue to participate in the program. The section chief explained that the only other case in which Cal EMA may choose to rescind the award is when it suspects or detects serious mismanagement of funds.

According to the section chief, in other instances Cal EMA works with subrecipients to modify their budgets to allow them to reallocate funds to different categories so that they spend their funds more efficiently and effectively. In addition, the division chief explained that in cases when the subrecipient is unable to spend the award within the term of the subgrant, Cal EMA may extend the end date of an individual subgrant or reduce the amount of the award. She stated that Cal EMA also works with the subrecipients to adjust previous billings because a subrecipient may have submitted requests for reimbursements for expenditures that were incurred in prior quarters.

According to the section chief, Cal EMA periodically sends letters to remind subrecipients that their entire funding awards must be spent by their respective subgrant end dates. Cal EMA sends the subrecipients two letters—one at 120 days and another at 30 days before the end of the subgrant period—and another two letters after the subgrant period. These letters detail information the subrecipients need to effectively and efficiently conclude their grant award, such as the period for

submitting final invoices, the closeout process, the amount of any unspent funds, and a due date for a final report of expenditures. According to the section chief, Cal EMA is currently working on an additional letter that it plans to send out this summer, the halfway mark for many of the JAG Recovery Act subgrants.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code. We limited our review to those areas specified in the letter report.

Respectfully submitted,



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State Auditor

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