

# Memorandum



**Date:** June 15, 2010

**To:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

Agenda Item No. 3(O)(1)(A)

**From:** George M. Burgess  
County Manager

**Subject:** Resolution Retroactively Authorizing the County Mayor or County Mayor's Designee to Apply for, Receive, and Expend Federal Funds from the State Criminal Alien Assistance Program

## **Recommendation**

It is recommended that the Board of County Commissioners approve the attached resolution retroactively authorizing the County Mayor or County Mayor's designee to apply for, receive, and expend federal funds from the State Criminal Alien Assistance Program (SCAAP). This item is retroactive because the application deadline of May 12, 2010, did not allow time to submit the resolution to the Board prior to submitting the application. This program does not require matching funds.

## **Scope**

This resolution only impacts the Miami-Dade Corrections and Rehabilitation Department (MDCR).

## **Fiscal Impact/Funding Source**

The funding source for this resolution will come from the Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice, which administers SCAAP. This program will have a positive fiscal impact on the Department. In Fiscal Year 2009, Miami-Dade County was awarded \$83,150.

## **Track Record/Monitor**

This funding will be monitored by Commander Maxine Harris of the Budget and Finance Bureau at the MDCR department.

## **Background**

The SCAAP provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating certain undocumented criminal aliens who have at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least four (4) consecutive days during the reporting period. The reporting period for the 2010 SCAAP is from July 1, 2008 through June 30, 2009.

Additional submission criteria require the records of inmates in custody during the reporting period who:

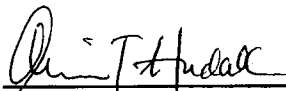
- Were born outside the United States or one of its territories and had no reported or documented claim to U.S. citizenship;
- Were in the applicant's custody for four or more consecutive days during the reporting period;
- Were convicted of one felony or two misdemeanor convictions for violations of state or local law;

- Were identified and reported as undocumented, using due diligence.

The United States Department of Homeland Security (DHS) will make the final determination on the status of submitted inmate records for undocumented alien purposes.

Salary information reported in the SCAAP application must reflect the total salaries and wages paid to correctional officers and others who meet the SCAAP definition. Salary costs date must be actual dollar amounts paid for correctional officer salaries during the reporting period and may include premium pay for specialized services, shift differential pay, and fixed-pay increases for time in service. It may also include overtime required by negotiated contract, statute, or regulation such as union agreements, contractual obligations, and required post staffing minimums.

SCAAP payments are calculated using a formula that provides a relative share of funding to jurisdictions that apply, and is based on the number of eligible criminal aliens, as determined by DHS. SCAAP payments are calculated simultaneously with grant applicants receiving a prorated payment based on the appropriation available, costs submitted, and inmates as determined by DHS. SCAAP funds must be used for correctional purposes only.



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Alina T. Hudak  
Assistant County Manager



# MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

DATE: June 15, 2010

FROM: R. A. Cuevas, Jr.  
County Attorney

A handwritten signature in black ink, appearing to read "RACJ", is written over the printed name of the County Attorney.

SUBJECT: Agenda Item No. 3(O)(1)(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 3(O)(1)(A)  
6-15-10

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RETROACTIVELY AUTHORIZING  
THE COUNTY MAYOR OR COUNTY MAYOR'S  
DESIGNEE TO APPLY FOR, RECEIVE, AND EXPEND  
FEDERAL FUNDS FROM THE STATE CRIMINAL  
ALIEN ASSISTANCE PROGRAM FOR THE PURPOSE  
OF REIMBURSING THE COUNTY FOR COSTS  
INCURRED FOR THE INCARCERATION OF  
UNDOCUMENTED CRIMINAL ALIENS; AND TO  
FILE AND EXECUTE NECESSARY AMENDMENTS  
TO THE APPLICATION

**WHEREAS**, this Board desires to accomplish the purposes outlined in the  
accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board  
retroactively authorize the County Mayor or County Mayor's designee to apply for,  
receive and expend federal funds from the Bureau of Justice Assistance, Office of Justice  
Programs, U.S. Department of Justice for State Criminal Alien Assistance Program funds  
for the purpose of reimbursing correctional officer salary costs associated with the  
incarceration of undocumented criminal aliens who have at least one felony or two  
misdemeanor convictions for violations of state or local law, and who are incarcerated for  
at least four consecutive days during the reporting period. The reporting period is from  
July 1, 2008 through June 30, 2009.

The foregoing resolution was offered by Commissioner ,  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

|                                 |                    |
|---------------------------------|--------------------|
| Dennis C. Moss, Chairman        |                    |
| Jose "Pepe" Diaz, Vice-Chairman |                    |
| Bruno A. Barreiro               | Audrey M. Edmonson |
| Carlos A. Gimenez               | Sally A. Heyman    |
| Barbara J. Jordan               | Joe A. Martinez    |
| Dorrian D. Rolle                | Natacha Seijas     |
| Katy Sorenson                   | Rebeca Sosa        |
| Sen. Javier D. Souto            |                    |

The Chairperson thereupon declared the resolution duly passed and adopted this 15<sup>th</sup> day of June, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Robert A. Duvall

**BUREAU OF JUSTICE ASSISTANCE  
STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)**

**NEW: Use of SCAAP Awards**

The Department of Justice Reauthorization Act of 2005 (Pub. L. 109-132, Title XH) included the following requirement regarding the use of SCAAP funds: "Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes." Beginning with FY 2010 SCAAP awards, SCAAP funds must be used for correctional purposes only. Jurisdictions receiving SCAAP awards will be asked to report the projected use of these funds at the time the award is accepted.

**PART I: SCAAP Guidelines**

**SCAAP Overview**

The Bureau of Justice Assistance (BJA), Office of Justice Programs, U.S. Department of Justice, administers SCAAP, in conjunction with the U.S. Department of Homeland Security (DHS). SCAAP provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens who have at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the reporting period.

**SCAAP Legislative Authority**

SCAAP is governed by Section 241(i) of the Immigration and Nationality Act, 8 U.S.C. § 1231(i), as amended, and Title II, Subtitle C, Section 20301, Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322. In general terms, if a chief executive officer of a state or a political subdivision exercises authority over the incarceration of undocumented criminal aliens and submits a written request to the U.S. Attorney General, the Attorney General may provide compensation to that jurisdiction for those incarceration costs. SCAAP is subject to additional terms and conditions of yearly congressional appropriations.

**Eligible Applicants**

States and local units of government that have authority over correctional facilities that incarcerate or detain undocumented criminal aliens for a minimum of 4 consecutive days are eligible to apply for SCAAP funds. States and local units of general government include the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities.

Regional jails, special jail districts, or regional jail authorities and boards do not qualify as political subdivisions of a state for purposes of SCAAP, and therefore are not eligible to directly apply for SCAAP funds. Each unit of government that houses inmates at a regional facility must apply independently for SCAAP funds, based on its own costs of housing its undocumented aliens in the regional facility. Regional facilities may not submit SCAAP applications on behalf of jurisdictions in its service area, nor may a regional facility submit one application for all participating jurisdictions, using one jurisdiction's name as the recipient.

**Authorized Officials**

SCAAP payments must go directly to eligible states and localities. Authorized jurisdiction employees for SCAAP purposes must be listed as either the Authorized Representative or Alternate Contact in the GMS User Profile. The chief executive officer (CEO) of an eligible jurisdiction may apply directly or delegate authority to another jurisdiction official. The CEO is generally considered the highest ranking elected or appointed official of a unit of government.

**Minimum Period of Incarceration**

Only eligible persons who were incarcerated for 4 or more consecutive days between July 1, 2008 and June 30, 2009 may be included in the FY 2010 SCAAP application.

**Multi-Jurisdictional Issues**

- Eligible inmates housed in the applicant's facility exclusively on behalf of another jurisdiction may only be

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reported by the sending jurisdiction, regardless of whether the applicant received reimbursement for related incarceration costs.

- Unless otherwise covered by a cost reimbursement agreement, inmates who are ready for release once qualifying charges or convictions are concluded, and who are temporarily held in the applicant facility on the basis of outstanding warrants or detainers from other jurisdictions, including federal law enforcement agencies, are SCAAP eligible. The applicant jurisdiction may claim the total number of days the inmate was in custody, including the days the inmate was held on the detainers or outstanding warrants.
- Detention or incarceration days attributable to otherwise qualifying inmates held on federal charges, convictions, or detainers and covered by cost reimbursement agreements are not SCAAP eligible.
- Juveniles adjudicated delinquent, regardless of the charges or length of custody, are not SCAAP eligible. Only juvenile offenders who are convicted as adults and who meet the qualifying SCAAP criteria may be eligible.

#### **Eligible Inmates**

Applicants may submit records of inmates in their custody during the reporting period who:

- Were born outside the United States or one of its territories and had no reported or documented claim to U.S. citizenship.
- Were in the applicant's custody for 4 or more consecutive days during the reporting period.
- Were convicted of a felony or second misdemeanor for violations of state or local law.
- Were identified and reported as undocumented, using due diligence.

The U.S. Department of Homeland Security will make the final determination on the status of submitted inmate records for undocumented alien purposes. Inmates may qualify for SCAAP purposes if they were:

- Persons who entered the U.S. without inspection or at any time or place other than as designated by the Attorney General.
- Persons in deportation or exclusion proceedings at the time they were taken into custody.
- Non-immigrants who failed to maintain their non-immigrant status at the time they were taken into custody.
- Certain Mariel Cubans who otherwise meet these requirements.

#### **Total All Inmate Days**

The "total all inmate days" is the cumulative number of incarceration or detention days attributable to all inmates housed in the jurisdiction's facilities during the reporting period. It includes all inmates, regardless of their status, citizenship, disposition, or length of stay, including inmates held at contract facilities. A jurisdiction can use the sum of all nightly, facility head counts for the 365 days in the reporting period.

| EXAMPLE                                                                                                                          | TOTAL DAYS                      |
|----------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| A jurisdiction detained or incarcerated 400 inmates during the current reporting cycle. Each inmate was held for exactly 7 days. | 2,800<br>(400 inmates x 7 days) |

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### Criminal Charges and Convictions

To be eligible for reporting, inmates must have been convicted of a felony or second misdemeanor for violations of state or local law, and housed in the applicant's state or local correctional facility for 4 or more consecutive days during the reporting period. All pretrial and post conviction time served from July 1, 2008 through June 30, 2009 may be reported to BJA.

| EXAMPLES                                                                                                                                                                                                                                                                                                                                                               | REPORTABLE DAYS      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| An alien was convicted of a felony during the reporting period and spent 20 days in pretrial detention and 60 additional days from the conviction. All 80 days occurred during the reporting period.                                                                                                                                                                   | 80                   |
| An alien was convicted of a felony during the reporting period and spent 20 days in pretrial detention and 60 additional days from the conviction. The 20 pretrial detention days and 40 of the sentenced days occurred in the reporting period; the remaining 20 days were served after June 30, 2009.                                                                | 60                   |
| An alien was convicted of a felony several years ago and is being held in pretrial detention on new charges. As this alien already qualifies based on the prior felony conviction, once he meets the minimum of 4 consecutive days in custody during the reporting period, the pretrial days may be reported to BJA, regardless of the outcome of the pending charges. | <i>As calculated</i> |
| An alien was convicted of a second misdemeanor and served 3 consecutive days as of June 30, 2008, and 20 additional days after June 30, 2008. This inmate cannot be reported for FY 2010, but will qualify for FY 2011. <i>NOTE: The first 3 days of the sentence are not reportable, regardless of what occurs with this inmate in the future.</i>                    | 0                    |

### Required Inmate Data Format

The detailed inmate file reflects the jurisdiction's good faith and due diligence efforts to identify and list undocumented criminal aliens housed in its correctional facilities. Required inmate data elements include the A-Number, if known; last, middle, and first names; date of birth; unique inmate number assigned by the applicant jurisdiction; foreign country of birth; date taken into custody; date released from custody; and the Federal Bureau of Investigation (FBI) number, if known.

For inmates with aliases or multiple periods of incarceration: Creating a separate and distinct inmate record for each qualifying period of incarceration may include eligible inmates incarcerated more than once during the reporting period. Similarly, inmates with known aliases may be reported by creating a separate and distinct inmate record for each name. The same unique inmate identification number must be used for all records associated with a single inmate, regardless of the name under which the inmate was incarcerated. Applications submitted without complete facility data and inmate records will not be considered for SCAAP funding.

### Country of Birth Codes

Generally, a person born in the U.S. or a U.S. territory is a U.S. citizen and should not be reported. Any submitted inmate record that includes a country code not on the official ICE country codes list will be rejected. Any record with an official country code that does not specifically represent a foreign country (unknown) will only be considered in the award calculation if determined the inmate is undocumented or otherwise qualifies. If the country provided by the inmate is not on the official list, select a country with a close geographic proximity to the one named by the inmate.

### Alternatives to Traditional Incarceration

Inmates are not eligible if they served their incarceration incrementally, such as through weekend incarcerations that enabled them to maintain employment. Qualifying periods of incarceration must occur consecutively over the course of 4 or more days.

### Parole and Probation Violators

Eligible inmates on parole or probation from qualifying convictions who are subsequently returned to the

custody of a state or local correctional facility may be eligible.

#### **Correctional Officers**

Correctional officers include employees, officers, and contractual staff whose primary responsibility is the control, custody, or supervision of persons detained and incarcerated, including correctional officers, deputy sheriffs, correctional/jail supervisors, shift commanders, chiefs of security, assistant wardens, and wardens. Transportation officers and others providing control, custody, or supervision of inmates who are temporarily outside the maintaining facility are also eligible. Employees, officers, and contractual staff whose primary responsibility is providing noncustody services to the facility or its inmate population are not SCAAP eligible, including office and secretarial support, administrative, housekeeping, maintenance, food, health, education, training, vocational, counseling, and medical staff. Staff who function independently or outside the correctional facility, including parole and probation agents, hearing officers, court commissioners, judicial, prosecutorial, and public defenders, warrant and apprehension units, and others are not eligible.

#### **Correctional Officer Salary Calculation**

Salary information reported in the SCAAP application must reflect the total salaries and wages paid to full- and part-time correctional officers and others who meet the SCAAP definition. The reported sum should total the jurisdiction's actual salary expenditures for the reporting period, not an estimate or average. Correctional officer salary costs may include premium pay for specialized service, shift differential pay, and fixed-pay increases for time in service. It may also include overtime required by negotiated contract, statute, or regulation such as union agreements, contractual obligations, and required post staffing minimums.

#### **Per Diem Costs**

Per diem cost is calculated by the SCAAP system, dividing the jurisdiction's "total all inmate days" into the "total correctional officer salary costs." During the FY 2007 reporting period, jurisdictions reported an average per diem cost of \$30.30. BJA may require documentation to validate per diem costs or impose limits on the costs.

#### **SCAAP Award Calculation**

Once SCAAP data has been validated and analyzed, applicants will receive e-mail notification that awards are ready for online acceptance and drawdown. Formal acceptance of an award via GMS is necessary for the electronic transfer of funds into the applicant's bank account of record. Applicants have 45 calendar days to accept awards through GMS once notice is provided. SCAAP payments must go to the jurisdictions' general fund.

#### **Payment Formula**

The following provides an overview of the method used to calculate SCAAP payments

1. Using financial data from applicants, a per diem rate is calculated for each jurisdiction. For FY 2007, the average per diem rate was \$30.30 per inmate.
2. Inmate data is provided to the U.S. Department of Homeland Security to validate inmate data for eligible, unknown, and invalid records.
3. Each jurisdiction's total eligible inmate days and a percentage of the unknown days are totaled then multiplied by the applicant's per diem rate to derive the total correctional officer salary costs for eligible and unknown inmate days. The percentage used for unknown days is determined by a sliding scale: cities 60 percent; states 65 percent; and counties 80 percent of their total unknown inmate days.
4. The value of each applicant's correctional officer salary costs associated with its eligible and credited unknown inmate days are totaled. This total value reflects the maximum amount for SCAAP reimbursement. A percentage factor is used to reflect the relationship between the maximum reimbursable salary costs and the appropriation. For FY 2009, this factor was approximately 35.15 percent.

#### **Variances**

A variance will exist between the total salary costs reported by a jurisdiction and the final SCAAP payment amount, due to adjustments for unknown, ineligible, or invalid inmate records and the annual appropriation. Both the SCAAP system and BJA check for variances from prior year submissions for correctional officer staffing and salary levels, total bed count, and number of total inmate days.

## **PART II: Applying for FY 2010 SCAAP Funds**

### **FY 2010 Reporting Period**

The FY 2010 SCAAP reporting period is from July 1, 2008 through June 30, 2009.

### **FY 2010 Registration and Application Deadlines**

Applications will be accepted through the online Grants Management System (GMS) beginning March 25, 2010, and ending at 6:00 p.m. e.t. on May 7, 2010.

### **GMS Application Process**

The SCAAP Catalog of Federal Domestic Assistance (CFDA) number is 16.606.

For questions or concerns at any point in the GMS process, call the SCAAP Help Desk at 1-202-353-4411.

1. Access GMS at <https://grants.ojp.usdoj.gov>.
2. If you already have a GMS user ID, proceed to the GMS sign in. Even if your organization already has a user ID, you will not be considered registered for the solicitation until you have signed on to GMS and entered the appropriate solicitation.
3. If you do not have a GMS user ID, select "New User? Register Here." After you have completed all of the required information, click "Create Account" at the bottom of the page and to note your user ID and password, which are case sensitive. Within a few days, BJA will send an e-mail confirmation to newly registered applicants that their user ID and password have been approved and they are eligible to submit an application.
4. Beginning October 1, 2003, a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number must be included in every application for a new award or renewal of an award. The DUNS number will be required whether an applicant is submitting an application on paper, through OJP's Grants Management System, or using the government-wide electronic portal (Grants.gov). An application will not be considered complete until the applicant provides a valid DUNS number.

Organizations should verify that they have a DUNS number or take the steps necessary to obtain one as soon as possible. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1-800-333-0505.

5. After you have logged onto the system using your user ID and password, click on "Funding Opportunities."
6. Select the "Bureau of Justice Assistance" from the drop-down list and click "Search." This will narrow the list of solicitations within the Office of Justice Programs to those in BJA.
7. From the list of BJA grants, find "State Criminal Alien Assistance Program" and click "Apply Online."
8. Confirm that your organization is eligible to apply for this program by reading the text on the screen. If eligible, proceed by clicking "Continue."
9. Once you have reached this point, you are considered successfully registered.

### **Online Inmate Data Reporting Process**

Select the file upload process below that best meets your needs. While you may change the method prior to submitting the completed application to BJA, note that *the change from one process to another will overwrite and delete all previous inmate record submissions.*

- **Direct File Upload:** The direct file upload function allows you to submit inmate database records in a single ASCII-formatted file directly into GMS. File uploads must contain the mandatory data fields in the required format. File uploads that do not include the necessary information will be considered incomplete

and not eligible SCAAP funding. The SCAAP system provides you with an opportunity to correct files or add missing data prior to finalizing the application.

- **Direct Data Entry:** The direct data entry function allows you to manually enter inmate data directly into an online inmate data template, instead of creating a separate ASCII file. This approach may be best suited for jurisdictions with smaller facilities or small criminal alien populations. Drop-down menus are provided for selecting incarceration dates, date of birth, and country of birth (complete country names are listed).

During the file upload process, a red flashing bar will appear at the bottom of the applicant screen. This bar will continue to flash until the inmate file upload is complete. Upon completion of the inmate file upload, SCAAP GMS will provide the applicant with a "File Upload Status Report." This report will list the number of inmate records in the upload and the number of inmate records that are complete. In addition, the report will provide a detailed list of inmate records (by file number) that are incomplete or have data format errors and the nature of the error. Print this file upload status report for your records. If during the file upload process, your Internet browser times out or is disconnected, your inmate file upload may not be complete. It is important that you check the "File Upload Status Report" and verify that all of your inmate records have been uploaded.

When initiating a file upload, there is an approximate 10 second start-up delay. Once the file upload has actually begun, the estimated times for file uploads: 300 inmate records = less than 1 minute; 7,800 inmate records = 3 minutes; 54,600 inmate records = 15 minutes.

#### **Technical System Requirements**

Internet access is required to apply for SCAAP funding. Generally, Netscape Communicator 4.7 and Internet Explorer 5.5 are the earliest versions of the respective Internet browsers that may be used for successful SCAAP application system access. Contact your agency network administrator to determine if an internal firewall or agency Internet security system may be preventing direct access to the application system, or contact the GMS Help Desk for information regarding correct port settings. If you are a prior SCAAP user, the browser bookmark may not work properly and an attempt to access the SCAAP application site may generate a message advising that the "page cannot be displayed." Delete the bookmark and manually type the URL into the browser address line.

#### **Internet User Accounts**

Government officials from the applying jurisdictions must establish the OJP GMS user accounts for SCAAP. Non-government officials may not establish user accounts on behalf of applying jurisdictions. When establishing a user account, sheriffs or chiefs of police are not considered CEOs, but they may serve as the contact persons establishing the SCAAP user accounts on behalf of the CEOs. All applications must be filed in the name of the state or unit of government and must include the jurisdiction's CEO's name, official title, and e-mail address.

#### **Application Resubmissions**

BJA may return a submitted application with incomplete or inaccurate data to the applicant for corrections, and will notify both the CEO and the SCAAP contact, via the e-mail address of record, that their application needs to be corrected and resubmitted by a certain date to be considered for SCAAP funding.