



**District Attorney  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

ALLEN ISHIDA  
District One

PETE VANDER POEL  
District Two

PHILLIP A. COX  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** May 24, 2011

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>						
CONTACT PERSON: Robert Dempsie PHONE: 636-5386						

**SUBJECT:** Authorize the submission of a grant application.

**REQUEST(S):**  
That the Board of Supervisors:

Authorize the submission of a grant application for approximately \$437,000, from the California Attorney General's Office Foreclosure Crisis Recovery Fund to combat mortgage and real estate fraud for a period of two years, from October 1, 2011 through September 30, 2013.

**SUMMARY:**  
The California Attorney General, on behalf of the People, sued Countrywide Home Loans and its former executives David Sambol and Angelo Mozilo for conduct related to Countrywide's mortgage practices. A settlement was reached with the former officers on February 3, 2011. As part of the settlement, the Attorney General developed the Foreclosure Crisis Recovery Fund in an effort to aid cities and counties in combating the effects of the real estate collapse and of mortgage and real estate fraud. The Tulare County District Attorney's Office has been invited to submit a grant proposal that will combat the effects of high foreclosure and mortgage delinquency rates in Tulare County.

Foreclosure is a phenomenon that hit the nation when the housing bubble burst and the economy collapsed. It hit Tulare County particularly hard: in the first half of 2010, Tulare County had the 19th highest foreclosure filing rate in the nation. Indications

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are that foreclosures will continue to be a significant issue in Tulare County throughout the next several years.

One result of the foreclosure crisis is a higher incidence of mortgage fraud. A recent report revealed that California is ranked third in the nation for this type of fraud, which can include fraudulent mortgage applications, investment scams and phony loan modifications. Locally, many Tulare County residents have been subject to shady companies promising to help distressed homeowners for a fee. Homeowners, desperate to do anything to save their home from foreclosure, will pay up to several thousand dollars to these companies with the promise that their loan will be modified. They are lured by the possibility of lower monthly payments, only to be told by the company that despite its efforts, the homeowners did not qualify for the loan modification.

The District Attorney's Office plans to offer a program that will include investigation and prosecution of misconduct relating to mortgage fraud. In addition, the District Attorney's Office will work in conjunction with CSET, a local nonprofit agency, to provide an outreach and consumer education component to the program.

This program will tackle the often overlooked areas of unlicensed mortgage lending companies, re-conveyance, and loan modification scams. As part of our application and plan, we will request funding for outreach with a focus on the elderly and Spanish speaking individuals. In addition, we intend to include a component in our overall plan which addresses training and assistance in real estate related fraud for local law enforcement. The requested funds will cover the costs of four District Attorney staff – one investigator, two investigator aides, and one legal office assistant – as well as costs for outreach and education materials and advertising, along with a subcontract with CSET for an amount yet to be determined. The total amount of this funding request is approximately \$437,000 and there is no required match.

**FISCAL IMPACT/FINANCING:**

There is no award floor or ceiling outlined in the application and the department is still finalizing its funding application amount; however, the request is anticipated to be approximately \$437,000. All proposals will be considered for funding by the California Attorney General and grant awards would begin on or around October 1, 2011. There is no required match.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

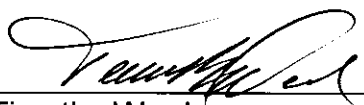
The County's five-year Strategic Business Plan and Management System includes a Safety and Security initiative, which contains the goal of protecting businesses and individuals from white collar crime, as well as the goal of effectively and fairly investigating, arresting, prosecuting and punishing individuals who engage in criminal behaviors. The authorization to submit this proposal will allow for new funding to strengthen our existing Real Estate Fraud unit.

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**ALTERNATIVES:**  
N/A

**INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:**  
N/A

**ADMINISTRATIVE SIGN-OFF:**



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Timothy Ward  
Assistant District Attorney

Cc: Auditor/Controller  
County Counsel  
County Administrative Office (3)

**Attachment(s)**  
Grant application

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF AUTHORIZE THE )  
SUBMISSION OF A GRANT )  
APPLICATION )

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

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JEAN M. ROUSSEAU  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

Authorized the submission of a grant application for approximately \$437,000, from the California Attorney General's Office Foreclosure Crisis Recovery Fund to combat mortgage and real estate fraud for a period of two years, from October 1, 2011 through September 30, 2013.

**INSTRUCTIONS FOR APPLICATIONS FOR DISTRIBUTION FROM THE  
FORECLOSURE CRISIS RECOVERY FUND  
Disbursement Cycle For Year 2011**

The Attorney General, on behalf of the People, sued Countrywide Home Loans and its former executives David Sambol and Angelo Mozilo for conduct related to Countrywide's mortgage practices. After reaching a sweeping injunctive settlement in 2008 with the corporation, now owned by Bank of America, the Attorney General on February 3, 2011, settled with the former officers. As part of the settlement, the Attorney General developed the Foreclosure Crisis Recovery Fund in an effort to aid cities and counties in combating the effects of the real estate collapse and of mortgage and real estate fraud. The establishment of the Fund was approved by the court and the terms of the Fund are set forth at pages 2-5 of the Judgment. (People of the State of California v. Countrywide Home Loans, David Sambol, and Angelo Mozilo, Los Angeles County Superior Court Case No. LC081846.)

As established by the Judgment, the Fund is administered by the California Attorney General's Office. The Fund is established to give the Office of the Attorney General and other "authorized agencies" access to funds that can be directed towards combating the effects of high foreclosure and mortgage delinquency rates in California.

"Authorized agencies," as defined in Paragraph 5(b) at page 3 of the Judgment, may apply for a grant from the Fund in accordance with the procedures set forth below. Grant applications will be reviewed by a committee within the California Attorney General's Office, as provided in Paragraph 5(f) at page 5 of the Judgment. The California Attorney General will make the final decision regarding which applications to fund.

**1. Schedule for Applications and Distributions**

Applications for the 2011 Distribution Cycle will be **accepted starting May 3, 2011, and must be postmarked by June 3, 2011, to be considered in the first round of disbursements.** Applicants should submit four copies of their application to the Foreclosure Crisis Recovery Fund Committee at the address below.

Foreclosure Crisis Recovery Fund Committee  
Attention: Benjamin G. Diehl  
Deputy Attorney General  
Office of the Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013

Applications should be submitted by U.S. or overnight mail. Applications sent by messenger must be received by June 3, 2011. The applicant's grant proposal should be limited to five pages and attached to the application form. Supporting documentation is permitted. The Attorney General's Office will consider applications and supporting documents to be confidential law enforcement communications. Each applicant should submit a draft one-paragraph non-

confidential statement describing the grant application in terms that can be released to the public in the event the applicant is awarded a grant so that the Attorney General's office may release a statement describing the amount of any grants awarded and the general purposes of the grants.

The Attorney General's Office will announce if it decides to accept applications for the 2011 Distribution Cycle after June 3, 2011. Any application postmarked after June 3 (or delivered by messenger after June 3) but before the Attorney General's Office announces it will accept additional applications will be returned.

The Attorney General's Office will notify applicants for the 2011 Distribution Cycle regarding whether their application was granted by October 1, 2011. Funds for the 2011 Distribution Cycle will be disbursed after October 3, 2011.

Applicants are limited to one application per Disbursement Cycle. There is no prohibition against re-submitting the same application in a future cycle, if it has been denied in a previous cycle.

Application procedures may be modified from year to year as needed. Authorized agencies will be notified of the application procedures and applicable deadlines annually or more often if appropriate.

## **2. Distribution from the Foreclosure Crisis Recover Fund: Purpose and Scope**

### **A. Purpose**

Grants from the Fund are intended to be used by authorized agencies in investigating and prosecuting misconduct relating to mortgage origination, mortgage servicing, and foreclosures; for consumer education regarding mortgage and foreclosure issues; and for developing and implementing programs to help neighborhoods impacted by foreclosure or very high mortgage default rates. An "authorized agency" means any district attorney, any city attorney, and any city and county attorney authorized to prosecute violations of California Business and Professions Code section 17200 et seq., as set forth in California Business and Professions Code section 17206, as well any state, city or county agency with responsibilities related to consumer protection and education. Applications may be made on behalf of multiple agencies. A multi-agency application for a grant should identify a lead agency and specify the roles to be played by each agency. Authorized agencies may work together with non-profit agencies to expand the scope of services to be offered through grants awarded by the Fund, provided that the grant application specifically identifies and describes the role to be played by any non-profit agency.

The Committee will consider requests for grants that will be used to advance consumer protection and education in the areas of mortgage origination, mortgage servicing, and foreclosures, as well as training of investigators and staff in combating these issues. These examples are not meant to be exclusive. The Committee will consider any application for a program or project that serves the purpose of combating misconduct related to mortgages and foreclosures, or foreclosure related issues such as urban blight or violations of the rights of

tenants of foreclosed properties. Applicants can request funds to help cover costs and expenses incurred by multi-agency consumer protection programs or to fund projects to be undertaken in conjunction with non-profit agencies, as well as the costs of experts, consultants, investigators, auditors, and equipment the applicant needs, but does not currently possess, to make the proposed project a success. \*

Grants from the Fund may be used to augment, but not supplant, the budget of the agency awarded a grant. As part of the application, an applicant must represent that its budget will not be reduced by reason of approval of the application.

#### B. Staff Expenses

Absent extraordinary circumstances, funds may not be used to pay for existing staff salary, benefits, or other compensation. However, while recognizing that there is no guarantee of future money, an application can be made to fund or partially fund, for the term of the grant, new project-specific positions or for limited term positions, such as investigators or auditors, needed to commence an investigation or prosecution. If some of the disbursement is used to partially fund payment for a consultant or expert, with the remainder of the money to come from a different source, applicants are reminded that there is no guarantee that disbursements from the Fund will continue in a subsequent year. \*

#### C. Factors that May be Considered by the Committee

In considering which applications to fund, the Committee will consider the following factors:

- (1) the intended purpose for which funds are sought;
- (2) the specificity of the proposal, including the use of funds, expected costs and expenses, the role to be played by any non-profit agency, the materials and personnel to be used, the services or goods to be provided through the project (if the application is for a video, brochure, or instruction unit, the applicant should provide a draft of the text or a detailed description of the contents). Please note that an application may be denied based solely on the lack of specificity, including the absence of a sufficiently detailed itemization of expenses; \*
- (3) competing requests for funding;
- (4) the anticipated public benefit to be served by approving the project;
- (5) the ability of the Committee to audit the use of the disbursed funds to ensure that the funds are used solely for authorized purposes;
- (6) the ability of the applicant to provide the Committee with a report regarding the results achieved by the investigation, prosecution, program, project or activity funded by the Fund;

- (7) the extent to which the proposed investigation, prosecution, program, project or activity will likely provide significant benefits to consumers and/or mortgage fraud victims generally;
- (8) the likelihood for the production of high quality materials that may be replicated and used by the applicant and others after the term of the project has expired; and
- (9) the extent to which the applicant proposes to use Fund monies for expenses involving travel and lodging, food and refreshments, etc.

During the review process, the Committee may contact applicants with questions regarding their applications.

### **3. Conditions on Disbursements**

Each applicant must agree in writing, as part of its application, to the following if awarded a grant from the Fund:

#### **A. Compliance and Authority**

- (1) The recipient will comply with any order of the Court in connection with the Fund and the disbursement received.
- (2) The person submitting the application represents that his/her office/unit is authorized to accept funds under applicable state and local laws and that the budget of the applicant's office/unit will not be reduced by the receipt of monies from the Fund. Fund monies shall be used to augment but not supplant the budget of the recipient's office/unit.
- (3) Approval of the application does not constitute the Committee's or California Attorney General's endorsement of the applicant's investigation, prosecution, program, project or other activity.

#### **B. Use of Funds and Financial Controls**

- (1) The recipient will vigilantly safeguard the monies disbursed by the Fund, maintain financial controls sufficient to protect the monies and ensure that the use of monies fully comports with the recipient's application. The recipient will provide a detailed written description of its financial controls upon request by the Committee.
- (2) The funding requested will not be used to pay for regular staff of the agency applying to the Fund unless specifically approved by the Committee.



- (3) Except as otherwise expressly agreed by the Committee in writing, the funds will only be used for the purposes described in the application, as approved or modified by the Committee.

#### C. Reimbursement of Amounts Distributed

- (1) If the applicant seeks funds for the purpose of investigation or litigation, any costs or attorneys fees the recipient obtains through a civil settlement will be used to reimburse the Fund for the full amount of the grant awarded. The Fund shall be reimbursed before any costs or attorneys fee award is used for any other purpose unless the Committee specifically approves otherwise.
- (2) In the event the recipient is the prevailing party after trial, the recipient will use its best efforts to reimburse the Fund in full from any monetary recovery ordered by trial and appellate courts and paid by the defendant(s).
- (3) If the application is for the purchase of non-case specific goods or services, any excess or unused funds must be returned to the Committee within 60 days after the purchase of the goods or services by check made payable to the California Attorney General's Office, with the notation "Foreclosure Crisis Recovery Fund Reimbursement."
- (4) Except as otherwise expressly agreed by the Committee in writing, within 60 days after the conclusion of the investigation, prosecution, program, project or activity for which funding was granted, the recipient must return unused or excess funds to the Committee by check made payable to the California Attorney General's Office, with the notation "Foreclosure Crisis Recovery Fund Reimbursement."

#### D. Reporting

- (1) The recipient will notify the Committee in writing within 30 days of resolving litigation, including any settlement, judgment or other resolution.
- (2) Six months after the funds are disbursed the recipient will notify the Committee in writing of the status of all outstanding litigation or investigations for which funding was granted and thereafter provide notice annually on the anniversary date of the disbursement.
- (3) Recipients must submit a self-evaluation report within six months after the funds are disbursed, and a final report to the Committee within 60 days of completing the investigation, prosecution, program, project or activity for which funding was awarded. These reports shall specify how the funds were used. All reports submitted to the Committee shall be treated by the Attorney General's Office as confidential law enforcement communications.

- (4) All correspondence with the Committee shall be directed to Deputy Attorney General Benjamin G. Diehl, Office of the California Attorney General, 300 South Spring St., Ste. 1702, Los Angeles, CA, 90013; phone: (213) 897-5548, fax: (213) 897-4951, e-mail: [Benjamin.Diehl@doj.ca.gov](mailto:Benjamin.Diehl@doj.ca.gov) .

E. Cooperation with the Committee

- (1) The recipient will cooperate with the Committee and its agents in providing all information concerning the use of funds the Committee may reasonably request and will maintain sufficient records for auditing purposes to substantiate any expenditure. In the event of a multi-agency grant, the lead agency shall be solely responsible for complying with this paragraph, except as otherwise expressly agreed by the Committee in writing.
- (2) The recipient will comply with any additional requirements the Committee may impose, including but not limited to completing and promptly returning any form required by the Committee to acknowledge selection as a recipient of monies from the Fund.
- (3) The Committee may designate, and require completion of, forms to satisfy these requirements. The Committee may attach additional written conditions to the award of any disbursements from the Fund.
- (4) The Committee will (except in extraordinary circumstances) condition funding an application for the production of any materials on the applicant's agreement to permit the California Attorney General's Office and other authorized agencies to use those materials, without restriction, for their intended purposes.

4. Amount and Timing of Distributions

Any amount up to the current balance of the Foreclosure Crisis Recovery Fund may be awarded in a Disbursement Cycle, at the discretion of the Office of the Attorney General as provided for in paragraph 5(e) of the Judgment. While there is no restriction on the number of applications granted or the specific amounts awarded to a recipient in a Disbursement Cycle, it is the Committee's intent that disbursements will be made to a number of projects in order to broaden the Fund's impact and the benefits to authorized agencies and communities.

Successful applicants will not automatically receive the amount of funding requested in the application. The Committee reserves the right to review and reduce the amounts requested and/or to request modifications to an application prior to awarding a grant. If the Committee decides to award less funding than requested by an applicant, the applicant shall have the opportunity to modify its budget and project objectives accordingly, or decline to accept the grant.

Partial operating support may be awarded to existing projects depending on how well they fulfill the purpose and goals of the Fund, and the availability of other sources of funding, now and in the future.

Grants shall be made on an annual basis only, in a single lump sum. The Attorney General's Office will select and notify disbursement recipients no later than October 1, 2011. Disbursements for the 2011 Disbursement Cycle will be made after **October 3, 2011**.

**5. The Foreclosure Crisis Recovery Fund Committee**

The Committee will include the Senior Assistant Attorney General of the Consumer Law Section and the Chief Assistant Attorney General of the Public Rights Division of the California Attorney General's Office or their designee(s). If the Committee consists of two members, only applications that both members of the Committee approve will be submitted to the Attorney General for final approval. If the Committee consists of more than two members, only applications that two-thirds or more of the Committee members approve will be submitted to the Attorney General for final approval.

**6. Reimbursements and Contributions to the Fund**

As noted above, the Committee will require applicants, as a condition of accepting an award from the Fund, to reimburse the Fund from any settlement or recovery (as permitted by law). Nothing in the Judgment or these instructions shall preclude a recipient from reimbursing the Fund in amounts greater than the amount received from the Fund, and an authorized agency regardless of whether a grant recipient, may provide contributions to the Fund at any time.

Funds may also be donated or contributed to the Fund from any source, subject to approval by the Committee.

**7. Auditing and Reporting**

Recipients of grants from the Fund shall maintain accounting records and other documents pertaining to costs incurred during the Disbursement Cycle for three years from the date of the final disbursement from the Fund. The Committee must be permitted to audit, review and inspect the recipient's books and records during the grant period and for three years following the final disbursement of funds to the recipient.

Recipients will be required to submit self-evaluation reports to the Committee on the progress of their project six months after receiving disbursements, as well as a description of how the funds were used. Multi-year recipients will also be required to submit an annual progress report in each succeeding year of a multi-year grant.

Recipients must submit a final report to the Committee within 60 days of completing the investigation, prosecution, program, project or activity for which the grant was awarded. The

report shall specify how funds were used and describe the outcome of the investigation, prosecution, program, project or activity for which funds were awarded.

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