

**INSTRUCTIONS FOR APPLICATIONS FOR DISTRIBUTION FROM THE
PRIVACY AND PIRACY FUND
Disbursement Cycle for Year 2018-2019**

On December 7, 2006, the Santa Clara County Superior Court (“Court”) entered the Final Judgment and Permanent Injunction (“Judgment”) in the case of *People v. Hewlett-Packard Company*, Case No. 106CV-076081, establishing the Privacy and Piracy Fund (“Fund”). The terms of the Fund are set forth in the Judgment at pages 8-10.

The Fund was established to give “authorized prosecutors,” as defined in the Judgment, access to additional funds so that they can more effectively conduct investigations and bring prosecutions to protect the public’s privacy rights and/or intellectual property rights.

The California Attorney General’s Office (“AG’s office”) administers the Privacy and Piracy Fund. Applications for disbursements from the Fund are reviewed by a three-person committee (“Committee”) of the California Attorney General’s Office, pursuant to Paragraph G(6) at page 10 of the Judgment. The California Attorney General makes the final decisions regarding which applications are funded.

NOTICE: The grant application, including supporting documents, communications with the AG’s Office and reports to the AG’s office, may become the subject of a California Public Record Act (PRA) request (Gov. Code, section 6250 et seq.). Please do not include information in your application that should remain confidential, such as personally identifying information or materials that may compromise an existing or contemplated investigation or case. If such information is necessary to support the application, please contact Deputy Attorney General Lisa B. Kim at 213-269-6369 to discuss whether and how the information should be submitted.

1. Schedule for Applications and Distributions

Applications for the 2018-2019 Distribution Cycle must be received by **July 31, 2018**. (A Disbursement Cycle is defined as the fiscal year in which disbursements are made (e.g., July 1, 2018 – June 30, 2019).)¹

¹ The Committee may, in its discretion, invite the submission of additional grant applications during the 2018-2019 Distribution Cycle by a later date.

If applying by mail, four copies of the application and supporting documents must be sent to:

Privacy and Piracy Fund Committee
Attention: Betty Mason
Associate Governmental Program Analyst
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, California 90013

Applications can also be sent electronically to Betty.Mason@doj.ca.gov. A confirmation email will be sent to the applicant once the application has been received. It is the applicant's responsibility to follow up with Ms. Mason to confirm that the application has been received.

Applications should be no more than five pages, not including the application form and supporting documentation.

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

2. Distribution from the Privacy and Piracy Fund Account: "Authorized Prosecutors," Purpose and Parameters

a. "Authorized Prosecutors"

An "authorized prosecutor" – meaning one who is eligible for disbursements from the Fund – is defined in the Judgment as 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. (See Judgment, p. 9, para. G(2).)

b. Purpose

Distributions to authorized prosecutors under Paragraph G(5) of the Judgment must be used for the investigation and prosecution of violations of the public's privacy rights and violations of intellectual property rights, and in accordance with the grant terms. Applications should therefore explain how and to what extent the distribution will be used for the investigation and prosecution of privacy and/or intellectual property matters. Distributions may be used to augment, but not to supplant, the budget of the grantee.

c. Parameters

i. Grant Conditions

Grant funds may only be utilized for the purposes set forth in the award letter, and the award is subject to all conditions described in the award letter and in these instructions. Unexpended

grant funds, and grant funds that have been expended for any purpose other than an authorized purpose, must be returned or refunded to the AG's Office upon request or upon expiration of the grant term, whichever occurs first.

ii. Funding should advance investigations and prosecutions

The Committee encourages applications that propose to use grant funds that will directly advance or support privacy or piracy investigations and prosecutions. Applications can be made to fund new or existing cases and investigations and for equipment that is needed for an ongoing privacy or piracy case. If requesting funds for the purpose of purchasing equipment, applicants must certify that the equipment is either (a) needed for an ongoing/privacy investigation, or (b) will be used at least 50% of the time for the investigation and prosecution of privacy and intellectual property matters.

iii. Multi-year projects

To allow applicants to advance complex and/or long-term projects, applications may seek grants with a term of up to three years.

iv. Modifications of approved applications

The Committee recognizes that circumstances may arise that would warrant a modification of the terms of a grant, or the purposes for which grant funds can be used. Approved applicants may apply to the Committee at any time for such a modification, which may be granted in the Committee's discretion.

v. Staff Expenses

An application can be made to fund or partially fund new project-specific positions such as forensic consultants or experts hired as independent contractors, or limited term positions, such as investigators or auditors. Absent extraordinary circumstances, funds may not be used to pay for already existing staff salary, benefits, overtime, or other compensation.

vi. Limitations on Travel or Training Expenses

The Committee disfavors requests to use disbursements for non case-related travel or training. Travel-related expenses, such as per diems, hotels and rental cars, will be reimbursed at the applicant's government rate. The Committee generally will not approve disbursements to train non-full-time employees, such as retired annuitants, contractors, or part-time employees.

d. Factors that the Committee May Consider

In addition to those considerations described above, in making decisions regarding which projects to fund, the factors that the Committee may consider include the following:

- (1) the intended purpose of the project for which funds are sought;

- (2) the specificity of the proposal, including the use of funds, expected costs and expenses, materials and personnel to be used, the services or goods to be provided through the project (in addition, if the application is for a video, brochure, or instruction unit, it is extremely helpful for the applicant to provide a draft of the text or a detailed description of the contents.)
- (3) competing requests for funding;
- (4) the anticipated benefit to the public and law enforcement if the project is approved;
- (5) whether the applicant has the demonstrated ability to safeguard and properly account for and report on the use of grant funds; and
- (6) whether the grant would constitute a responsible use of limited law enforcement resources.

3. Additional Grant Conditions

Grants are subject to the conditions described in these instructions and the award letter, and to the following conditions:

- a. The grantee will comply with the Judgment and each and every order of the Court in connection with the Privacy and Piracy Fund and the disbursement received.
- b. The grantee will vigilantly safeguard the monies disbursed and maintain financial controls sufficient to protect such monies and ensure that the use of monies fully comports with the grantee's application for the disbursement, and provide detailed written description of such financial controls upon request by the Committee.
- c. The funding requested will not be used to pay for regular staff of the agency or entity applying for this project.
- d. The person submitting the application represents that his/her office 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 disbursement funds. Disbursement funds shall be used to augment but not supplant the budget of the disbursement recipient.
- e. Except as otherwise expressly agreed by the Attorney General's Office in writing, the funds will only be used for the purposes identified in the award letter.
- f. If the project is for the purpose of investigation or litigation, any civil settlement the grantee enters will provide for full reimbursement of the amount of the disbursement to the Privacy and Piracy Fund.

- g. In the event the grantee is the prevailing party after trial, the grantee will use its best efforts to reimburse the Privacy and Piracy Fund in full from any monetary recovery paid by the defendant(s).
- h. The grantee will notify the Committee in writing of investigation or litigation results, including any settlement, judgment or other resolution, within 60 days of such settlement, judgment or other resolution.
- i. The grantee will cooperate with the Committee and its agents in providing all information and documents concerning the use of funds as the Committee reasonably requests and will maintain sufficient records for auditing purposes to substantiate any expenditure. In the event of a multi-agency project, the initial disbursement applicant shall be solely responsible for complying with this paragraph, except as otherwise expressly agreed by the Committee in writing.
- j. Approval of this application does not constitute Committee or California Attorney General endorsement of the applicant's project.
- k. Except as otherwise expressly agreed by the Committee in writing, upon request, or upon conclusion of the grant term, the grantee must return all unused or improperly used grant funds to the California Attorney General's Office, with the notation "Privacy and Piracy Fund Reimbursement."
- l. If an application is for the production of any materials, the Applicant agrees to permit the California Attorney General's Office and other authorized prosecutors to use those materials, without restriction, for their intended purposes.
- m. Grantees must submit a report within 60 days of the earlier of (a) the end of the grant term or (b) completing the project for which the disbursement was awarded. These reports shall specify how disbursement funds were used and, if applicable, a description of the project's outcome. Multi-year grantees must also provide yearly progress reports.
- n. Grantees shall maintain all records related to the use of grant funds for a period of five years from the date of the final expenditure or return of grant funds. The AGO shall be permitted to review all such documents upon request.