

Teresa Serata

Heather Tannehill-Plamondon

From: Teresa.Serata@SFGOV.ORG
Sent: Tuesday, January 25, 2011 6:18 PM
To: Heather.Tannehill-Plamondon@sfgov.org
Subject: Fw: Review of Bay Area Urban Area Security Initiative/Alameda County Sheriff Procurement Process
Attachments: Oct 15 Letter to Cal EMA.pdf

Teresa Serata
Director of Strategy and Grant Compliance Bay Area UASI 10 Lombard Street, Suite 410
San Francisco, CA 94111
Phone (415) 705-8520

----- Forwarded by Teresa Serata/DEM/SFGOV on 01/25/2011 06:17 PM -----

Brendan Murphy
<brendan.murphy@c
alema.ca.gov>

10/15/2010 11:45
AM

"Serata, Teresa"
<teresa.serata@sfgov.org>,
"Heather@bauasi.org"
<Heather@bauasi.org>

To

cc

Subject

Fw: Review of Bay Area Urban Area
Security Initiative/Alameda County
Sheriff Procurement Process

FYI

From: Scott Frizzie
To: Brendan Murphy
Cc: Stephen Sellers
Sent: Fri Oct 15 11:21:24 2010
Subject: Fw: Review of Bay Area Urban Area Security Initiative/Alameda County Sheriff Procurement Process

FYI. Just in case you hadn't already received a copy of the letter from the city of San Jose and the county of Santa Clara regarding your report.

Scott Frizzie
Director
Regional Operations
California Emergency Management Agency

From: Carvalho, Shanea <shanea.carvalho@ceo.sccgov.org>

To: Matthew Bettenhausen
Cc: Smith, Jeff <jeff.smith@ceo.sccgov.org>; chuck.reed@sanjoseca.gov
<chuck.reed@sanjoseca.gov>; Harrison, Emily <emily.harrison@ceo.sccgov.org>; Hofmann, Kirstin
<Kirstin.Hofmann@oes.sccgov.org>; Fields, Monica; thesecc@doc.gov <thesecc@doc.gov>;
tzinser@oig.doc.gov <tzinser@oig.doc.gov>; michelle.mcgurk@sanjoseca.gov
<michelle.mcgurk@sanjoseca.gov>; RADomingo@oaklandnet.com <RADomingo@oaklandnet.com>;
RLucia@acgov.org <RLucia@acgov.org>; Scott Frizzie; Teresa.Reed@sanjoseca.gov
<Teresa.Reed@sanjoseca.gov>; Hennessy, Vicki; kyamatani@oig.doc.gov <kyamatani@oig.doc.gov>;
lstrickling@ntia.doc.gov <lstrickling@ntia.doc.gov>
Sent: Fri Oct 15 11:13:50 2010
Subject: Review of Bay Area Urban Area Security Initiative/Alameda County Sheriff Procurement
Process

Secretary Matthew Bettenhausen,

Please see the attached letter from both Santa Clara County Executive Jeffrey V. Smith and the Honorable San Jose City Mayor Chuck Reed regarding Cal EMA's review of the Cooperative Agreement.

A hard copy of their letter will be sent to you by U.S. Post.

Shanea Carvalho
Executive Assistant to
Jeffrey V. Smith, County Executive
p/ 408.299.5102
e/shanea.carvalho@ceo.sccgov.org

NOTICE:

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(See attached file: Oct 15 Letter to Cal EMA.pdf)

The California Emergency Management Agency (Cal EMA) was asked to review the method and process by which the Bay Area Urban Area Security Initiative (UASI) and the Alameda County Sheriff's Department used in signing a "Cooperative Agreement" with a private vendor to submit a federal grant application, on behalf of the 10-county region. In addition, Cal EMA will review the process by which the UASI awarded funds to complete "Project Cornerstone" which is a related but separate project funded by United States Department of Homeland Security Grants administered by Cal EMA. This particular review deals with the "Cooperative Agreement" that was entered into by the Alameda County Sheriff ostensibly on behalf of the entire region that is covered under the Bay Area Regional Interoperability Communications System (Bay RICS).

The UASI in conjunction with the Bay RICS Policy Group set about to find a way to partner with an entity that would be willing to submit an application for a National Telecommunications and Information Administration (NTIA) Broadband Technology Opportunities Program (BTOP) grant. The end result of the process that was used resulted in the signing of a "Public Private Cooperative Agreement for Bay WEB" this agreement was signed by the Alameda County Sheriff on behalf of the Bay RICS Policy Group and Motorola, Inc. The most important factor of this agreement is the actual federal rules that govern the use of "Cooperative Agreements" and the standard of acquisition/purchasing rules they should be subject to.

Many of the relevant definitions for the federal procurement process are found under Title 48 Code of Federal Regulations, Chapter 1, Subchapter A, Part 2. This section defines acquisition as:

The acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

According to this definition of acquisition there is a requirement that it include appropriated funds and a contract to expend those funds. The same section defines a contract as:

A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments,

contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq.

A contract also requires a seller to furnish supplies or services and the buyer to pay for them. The term contracting is further defined as:

Purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. Contracting includes description (but not determination) of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

Finally Cooperative Agreements (CA) have different Meanings throughout government, but the Standard definition at the federal level is derived from 31 United States Code 6301, et seq, which states:

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when -

- (1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and
- (2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

Applying the same standards to state and local government procurement processes when they are using federal funds is a big portion of ensuring adherence to federal rules while in a grant relationship. The federal funds can be received from the federal government directly or through a State Administering Agency (SAA) that is implementing federal grants. Application of federal procurement rules and state/local procurement policies if they happen to be more stringent than the federal rules is at the heart of adherence to all federal government procurement guidelines. With this in mind is important to note that the federal CFR and USC do not define Cooperative Agreements as contracts. Therefore, the general standard for agreeing to CAs should be does the CA meet the definition in the United States Code and did the signatories to the agreement exercise "due diligence." Where due diligence is defined as: **the care that a reasonable person exercises under the circumstances to avoid harm to other persons or their property.**

The “Public Private Cooperative Agreement – Bay WEB” as signed by both the Alameda County Sheriff and Motorola, Inc. is termed a Cooperative Agreement by the signatories but the requirements of the agreement will dictate whether or not the CA fits the federal definition of what a CA should be. The following section details out major portions of the agreement.

The “Public Private Cooperative Agreement – Bay WEB” states that: “The Sheriff of Alameda acting on behalf of the San Francisco Bay Area Regional Interoperability Communications System (Bay RICS) and Motorola, Inc. agree to the following:

1. The Sheriff as the Region 2 Coordinator of mutual aid is interested in completing a regional 700 mhz wireless broadband network known as BayWEB and has selected Motorola to design, deploy, own, operate, and maintain the network.
2. The Sheriff and Motorola both wish for the Network completion to be funded in principal part with NTIA Broadband Technology Opportunities Program (BTOP) Funding.
3. BTOP encourages grant applicants to form “public private cooperative agreements” for the purposes of the projects.
4. The agreement describe the roles and responsibilities of the parties
5. The cooperative agreement is intended to be consistent with and supportive of the BTOP grant application.
6. If the BTOP grant application is successful, then the parties may enter into one or more additional agreements.

The agreement contains four major joint responsibilities of both parties:

- The Parties will work together to submit a BTOP application for funding and together with grant matches these funds should fund the completion of the design, deployment, operation and maintenance of the system.
- The Sheriff will review and approve the BTOP application, but Motorola will serve as the BTOP grant applicant.
- Both parties will promote the success of the BTOP application and if successful will promote the compliance with applicable laws.
- If the BTOP funds are approved the parties will negotiate in good faith additional agreements.

The agreement contains multiple requirements for Motorola to complete, the following is a listing of the types of activities Motorola agreed to complete.

- Retain a firm to provide BTOP grant expertise
- File the BTOP application as grant applicant
- Design the network and ancillary systems that will use a minimum of 150 existing shovel ready sites.

- Negotiate and enter into a teaming agreement with Verizon Wireless and other Internet Service Providers to promote greater broadband access within the region.
- Develop a subcontractor plan for use concerning the design and deployment
- Provide the equipment and software for the network and ancillary systems if the application is successful.
- Commit in the BTOP application to provide a grant match of at least 25%
- Motorola will own, operate, and maintain the Network and ancillary systems for the life of the systems subject to allowable transfers under the BTOP grant program.
- At some point in time of mutual agreement between both parties Motorola will transfer ownership of the Network and ancillary systems to the Sheriff or some other representative of the Bay RICS Policy Group.
- During the BTOP grant term, Motorola will use project income as authorized in the BTOP grant award.

These responsibilities were agreed to by the Sheriff as the Region 2 Mutual Aid coordinator and in the context of this agreement the Sheriff clearly intends to live up to these terms through the support of the other Bay Area counties and the Bay RICS Policy Group.

- The Sheriff will facilitate, through the Bay RICS Policy Group, site access and continuous use of a minimum of the 150 "shovel ready" sites.
- All licenses shall be provided at the cost and expense of the Sheriff. (e.g. FCC licenses and PSBL licensing agreements)
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- Staff from the Bay Area UASI Interoperability team will support the BTOP application by garnering letters of support for various government authorities and community anchor institutions.
- The sheriff through Bay RICS Policy Group must provide Network operation specifications.
- The Bay RICS Policy Group will coordinate the billing to the various network users and collect the network fees, so that the remittance can be made to Motorola in one monthly payment for aggregated monthly network user fees.

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Brendan A. Murphy
Director of Grants Management
California Emergency Management Agency
Phone - (916) 322-2785
Mobile - (916) 212-0837
(See attached file: BTOP Review Draft1.docx)

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Heather Tannehill-Plamondon

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10/11/2010 07:52
PM

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<teresa.serata@sfgov.org>

To

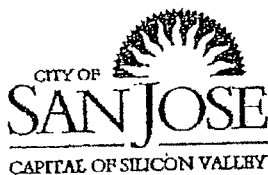
cc

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Brendan A. Murphy
Director of Grants Management
California Emergency Management Agency
Phone - (916) 322-2785
Mobile - (916) 212-0837
(See attached file: BTOP Review Draft1.docx)



Office of the City Manager

June 7, 2010

Mr. Joseph Bissonnette
Communications Policy Advisor
Broadband Technology Opportunities Program
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C., 20230

Re: *The San Francisco Bay Area Wireless Enhanced Broadband Project (BayWEB)*,
Easygrants ID: 7309

Dear Mr. Bissonnette:

This letter is submitted in support of the above-referenced application by Motorola, Inc. ("Motorola") under the Broadband Technology Opportunities Program ("BTOP") and responds to your email of May 27, 2010 to Mr. Derek Phipps of Motorola.

If this application is successful and Motorola is awarded the BTOP grant funds, the City of San Jose (the "City") plans to participate in the BayWEB project. More specifically, the City will negotiate in good faith to enter into the requisite lease agreement with the Public Safety Spectrum Trust Corporation ("PSST") so that the 700 MHz spectrum may be used for the public safety system described in Motorola's BTOP application.

Sincerely,

Deanna J. Santana
Deputy City Manager

CC: Rob Davis, Chief of Police
Diane Urban, Deputy Chief, Bureau of Technical Services
Teresa Reed, Assistant Fire Chief
Chris Godley, OES Director

County of Santa Clara



City of San José



September 8, 2010

Honorable Gary Locke
Secretary of Commerce
U.S. Department of Commerce
14th and Constitution Avenue NW
Washington, DC 20230

**Subject: Broadband Technology Opportunity Program (BTOP) grant award
to San Francisco Bay Area**

Dear Secretary Locke:

We are writing to request that you suspend, or postpone, the recent National Telecommunications and Information Administration (NTIA) Broadband Technology Opportunity Program (BTOP) grant award to the San Francisco Bay Area until concerns regarding the procurement and vendor selection process have been addressed and well understood. The process utilized to select the vendor for this project does not reflect our standard for accepted procurement practices.

Additionally, as one of the three Bay Area cities to petition the original FCC 700 MHz waiver, the City of San Jose joins with many other regional partners which have significant questions regarding the grant application process and the proposed implementation that need to be answered to ensure a successful project. Representing over two million residents, the participation of San Jose and the County of Santa Clara is essential to the eventual success of this effort. Furthermore, in a letter dated June 7, 2010 to Mr. Joseph Bissonnette, NTIA, the City of San Jose is on record of its support and desire to participate in BTOP.

We look forward to working with you and your staff in carrying out a transparent and fully coordinated BTOP project that will help safeguard the lives and property of all residents in the San Francisco Bay Area residents.

Honorable Gary Locke
Re: BTOP Grant
September 8, 2010
Page 2

For more information please contact: Deanna Santana, Deputy City Manager, City of San José at (408) 535-8280; Teresa Reed, Assistant Fire Chief, City of San José, UASI Approval Authority Member at (408) 277-5457; Emily Harrison, Deputy County Executive, County of Santa Clara at (408) 299-5116; or Kirstin Hoffman, Director of Emergency Services, County of Santa Clara at (408) 808-7802. Thank you for your attention to this request.

Sincerely,



Chuck Reed
Mayor

Sincerely,



Jeffrey V. Smith
County Executive

CC: Honorable Dianne Feinstein, Senator, California
Honorable Barbara Boxer, Senator, California
Honorable Jerry McNerney, Representative, District 11, California
Honorable Anna Eshoo, Representative, District 14, California
Honorable Michael Honda, Representative District 15, California
Honorable Zoe Lofgren, Representative District 16, California
Honorable Ronald V. Dellums, Mayor, City of Oakland
Honorable Gavin Newsom, Mayor, City and County of San Francisco
Debra Figone, City Manager, City of San Jose
Dan Lindheim, City Administrator, City of Oakland
Emily Harrison, Deputy County Executive, County of Santa Clara
Renee Domingo, Director of Emergency Services, City of Oakland
Scott Frizzie, Director of Regional Operations, CalEMA
Vicki Hennessy, Director, City of San Francisco DEM
Kirstin Hoffman, Director of Emergency Services, Santa Clara County OES
Rich Lucia, Undersheriff, Alameda County Sheriff's Department
Monica Fields, Deputy Chief of Administration, City of San Francisco Fire Department
Teresa Reed, Assistant Fire Chief, San Jose Fire Department
Marek Gootman, Patton Boggs LLP

Attachment: June 7, 2010 to Mr. Joseph Bissonnetta, NTIA.

Heather Tannehill-Plamondon

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Sent: Tuesday, January 25, 2011 6:19 PM
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To

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Fw: BTOP Letter to Secretary of
Commerce, Gary Locke

FYI

From: Scott Frizzie
To: Cecile Rollinson; Stephen Sellers; Brendan Murphy; Mike Dayton
Sent: Thu Sep 09 16:02:40 2010
Subject: Fw: BTOP Letter to Secretary of Commerce, Gary Locke

FYI

Scott Frizzie
Director
Regional Operations
California Emergency Management Agency

From: Cervantes, Yolanda <Yolanda.Cervantes@sanjoseca.gov>
To: officeofthemayor@oaklandnet.com <officeofthemayor@oaklandnet.com>;
cityadministrator@oaklandnet.com <cityadministrator@oaklandnet.com>;
gavin.newsome@sfgov.org <gavin.newsome@sfgov.org>; jeff.smith@ceo.sccgov.org
<jeff.smith@ceo.sccgov.org>; Scott Frizzie; Figone, Debra <Debra.Figone@sanjoseca.gov>;
vicki.hennessy@sfgov.org <vicki.hennessy@sfgov.org>; monica.fields@sfgov.org
<monica.fields@sfgov.org>; rlucia@acgov.org <rlucia@acgov.org>;

kirstin.hofmann@oes.sccgov.org <kirstin.hofmann@oes.sccgov.org>; Reed, Teresa <Teresa.Reed@sanjoseca.gov>; cityadministrator@oaklandnet.com <cityadministrator@oaklandnet.com>; Emily Harrison <emily.harrison@ceo.sccgov.org>; dan_wessel@feinstein.senate.gov <dan_wessel@feinstein.senate.gov>; andre.nguyen@mail.house.gov <andre.nguyen@mail.house.gov>; diego.barragan@mail.house.gov <diego.barragan@mail.house.gov>; patty.kim@mail.house.gov <patty.kim@mail.house.gov>; officeofemergencyservices@oaklandnet.com <officeofemergencyservices@oaklandnet.com>
Cc: Santana, Deanna <Deanna.Santana@sanjoseca.gov>
Sent: Thu Sep 09 15:45:44 2010
Subject: BTOP Letter to Secretary of Commerce, Gary Locke

Hello All,

Attached please find a letter written to the Secretary of Commerce, Gary Locke, of the US Department of Commerce from Mayor Chuck Reed, City of San Jose and County Executive, Jeff Smith, Santa Clara County, in regards to the UASI BTOP Grant.

Regards,

Yolanda

Yolanda M. Cervantes
City of San José|City Manager's Office
200 E. Santa Clara Street|San Jose, CA 95113 [408.535.8102](tel:408.535.8102)|yolanda.cervantes@sanjoseca.gov

(See attached file: Letter to Sec of Commerce.pdf)(See attached file: Attachment to letter.pdf)

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----- Forwarded by Teresa Serata/DEM/SFGOV on 01/25/2011 06:17 PM -----

Brendan Murphy
<brendan.murphy@c
alema.ca.gov>

10/22/2010 09:39
AM

"Serata, Teresa"
<teresa.serata@sfgov.org>

To

cc

Subject

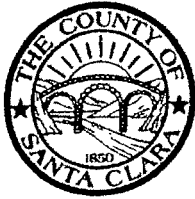
Response to your voicemail

Ok, sorry we didn't talk, yet again, but you are on a plane so here are some answers.

1. Cornerstone report I am hoping for the end of next week, but more realistically it will be the beginning of the following week.
2. Sole source for conference I saw the emails and I don't have a problem with the justification. I think we can work something out...I'm a little distant on this one since I consider Steve a friend...I'm hoping that Mary and my staff can work it out.
3. IPIA was not you. If it were we would have already contacted you for follow-up.
4. Have fun on your weekend get away that sounds great!!!

Brendan

County of Santa Clara



City of San José



October 15, 2010

Sent Via E-mail

Matthew R. Bettenhausen, Secretary
California Emergency Management Agency
3650 Shriever Avenue
Mather, CA 95655

RE: Review of Bay Area Urban Area Security Initiative/Alameda County Sheriff
Procurement Process

Dear Secretary Bettenhausen,

We are in receipt of the California Emergency Management Agency's review of the "method and process by which the UASI and the Alameda County Sheriff's Department used in signing a 'Cooperative Agreement' with a private vendor to submit a federal grant application, on behalf of a ten county region."

Clearly, Cal EMA staff failed to understand some critical facts. We can understand how this may have happened given the complexity of this issue and the misrepresentations that have occurred to date.

First, the agreement signed between the Alameda County Sheriff and Motorola on March 15, 2010 represents that the Sheriff is "acting on behalf of the Bay RICS Policy Group." On March 15, the Bay RICS Policy Group **did not exist**. It first met on July 7, 2010.

As recently as Tuesday, October 12, the Alameda County Sheriff convened regional stakeholders to hash out governance issues for the federally funded project called BayWEB. In that meeting, both the Sheriff and UASI General Manager clearly stated

that there was not a governing body in place to implement the broadband project and one needed to be created.

Second, the agreement goes on to state Bay RICS Policy Group "is the governing body of the shared San Francisco Bay Area Interoperability Communications System" leading one to believe this non-existent group had some governing authority. There is no Memorandum of Understanding, Joint Powers Authority, or other arrangement under which the Bay RICS Policy Group or Alameda County Sheriff were granted the authority to contractually obligate the cities and counties of our region.

The Bay RICS Policy Group/Alameda County Sheriff had **no authority** to enter into any agreements with a private contractor on behalf of our ten county region.

There is a Memorandum of Understanding between the Bay Area's largest cities and counties to work collaboratively on urban area security issues through the UASI. That agreement vests power and decision-making in the UASI Approval Authority. The Approval Authority must agree to procurements and partnerships of this type. The Approval Authority learned of the Motorola partnership after the grant application was submitted.

The General Manager of the UASI and her staff exceeded their authority in pursuing this partnership with Motorola. The creation of a new governing body is outside the authority of the General Manager, UASI staff, or the Alameda County Sheriff.

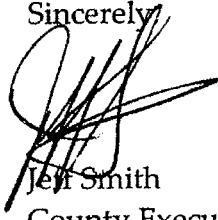
Finally, and perhaps most important, **no public vote was ever taken** to partner with Motorola. Not by the non-existent Bay RICS Policy Group, not by the UASI Approval Authority, nor by any local city and county. At the October 12 meeting, the UASI General Manager confirmed that no one voted for this partnership or to select Motorola.

Given the above, it is preposterous to think that this "process met or exceeded the due diligence requirements" as Cal EMA states.

Staff from the South Bay region met with Cal EMA staff and made them aware of the concerns we had and what we were looking into. At the time those meetings took place, UASI staff had not provided us with the Public Private Cooperative Agreement. Had we had access to the document at the heart of Cal EMA's review, we likely would have brought the above issues to Cal EMA's attention.

Oversight of UASIs resides with Cal EMA, acting on behalf of the federal Department of Homeland Security, and Cal EMA holds the tie-breaking seventh vote on the Bay Area UASI Approval Authority. We ask that you rescind this report and take another look at the serious issues that have been raised about this project and the ongoing problems at the UASI.

Sincerely,



Jeff Smith
County Executive



Chuck Reed
Mayor

- c: Honorable Gary Locke, Secretary of U.S. Department of Commerce
Honorable Todd Zinser, Inspector General
BAUASI Approval Authority Members
Emily Harrison, Deputy County Executive



Cal EMA
CALIFORNIA EMERGENCY
MANAGEMENT AGENCY

December 15, 2010

Laura Phillips
Executive Director
Bay Area Urban Area Security Initiative
10.Lombard St Suite 410
San Francisco, CA 94111

Dear Ms. Phillips:

The Bay Area Urban Area Security Initiative (UASI) asked the California Emergency Management Agency (Cal EMA) to review the method and process by which the UASI awarded funds to complete "Project Cornerstone" which is a separate project inside of the Urban Area Security Initiative Grant program funded by United States Department of Homeland Security Grants and administered by Cal EMA. In this particular review an overview of Project Cornerstone will be given, but more importantly, some concerns about the project and possible solutions and recommendations for future projects will be discussed. However, this review is not a complete legal analysis. It is based on documents provided by the UASI.

On behalf of the UASI Interoperable Team, the City and County of San Francisco issued a Request For Information (RFI) on September 29, 2009. This RFI requested respondents to reply with their ideas for how a regional 700 megahertz Wireless Mobile Broadband Network could be implemented in the Bay Area. These RFI responses were due approximately 60 days later. The RFI had a clause on the first page that stipulated that the RFI may be used to develop a pilot project pursuant to the San Francisco Administrative Code, Chapter 21, Regulation 21.5E (Page 26 of the Purchasing Rules and Regulations). The pilot project turned into Cornerstone. In a non-technical paraphrase, the Cornerstone project is the demonstration phase of the information included in the RFI. Cornerstone was designed to possibly lend credence to a technology or help set the groundwork for a larger 700 MHz Bay Area Project based either on the tested technology or the information gained by testing the technology.

The Project Cornerstone Grant Process

The UASI subgranted the funding for Cornerstone to Alameda County who subgranted the funding to the East Bay Regional Communication System Authority (EBRCSA) where the EBRCSA signed a contract with Motorola based on the RFI completed by the City and County of San Francisco in accordance with procurement processes. This subgrant process brings up the first note of concern from Cal EMA. While there is no evidence that any of the process was unallowable or broke federal rules, this process could have been clarified or granted in an easier manner.

The Cornerstone grant could have been given directly to a San Francisco agency to complete the pilot project, which would have allowed for a single grant and a pilot project based on an RFI completed by the

same jurisdiction. Or, the UASI could have made the Cornerstone subgrant directly to the EBRCSA, which would have allowed for a much cleaner grant process and one subgrant to an eligible entity. While there does not appear to be any violation of grant rules with the way the subgrants were given, it is worth noting that there were some simple solutions to avoiding any appearance of obfuscation by making some choices that were available to the UASI and could have made this an easier grant process to follow.

Vendor Decision Process

Similar to any Request for Proposal (RFP) process there has to be a process by which a pilot project pursuant to the reviewed RFI is approved and then acted upon by the UASI and EBRCSA. In the documents provided by the UASI and EBRCSA there was no such discussion of how the vendor for the pilot project, in this case Cornerstone, was selected. This review is not suggesting that there has to be the same level of review and rating of the respondents, as if this was an RFP. However, there should be some documentation as to how the specific pilot project was chosen from the RFI responses so that there can be clarity when the subgrant file is reviewed in the future. This clarification should explain why the specific Cornerstone vendor was selected over the other respondents and describe the decision making process that led to the establishment of the pilot.

Summary

There were no violations of federal or state grant rules with the process that the UASI used to subgrant funds to EBRCSA to complete Project Cornerstone. However, as noted above, there were a few areas of concern with recommendations to consider for future subgrants in the UASI. While Cal EMA recognizes the complexities with granting millions of dollars to partner agencies, we have found it is best to attempt to take the most direct route when subgranting. This is proven to be the most effective and efficient way to dispersing funds and we encourage our partner agencies to adopt a similar methodology.

We appreciate the opportunity to review Project Cornerstone, and we appreciate the proactive request by the Bay Area Urban Area Security Initiative (UASI) asking for Cal EMA's input.

Sincerely,



BRENDAN A. MURPHY
Director of Grants Management

Heather Tannehill-Plamondon

From: Teresa.Serata@SFGOV.ORG
Sent: Tuesday, January 25, 2011 6:15 PM
To: Heather.Tannehill-Plamondon@sfgov.org
Subject: Fw: Cornerstone Review Letter 12-15.docx
Attachments: Cornerstone Review Letter 12-15.docx

Teresa Serata
Director of Strategy and Grant Compliance Bay Area UASI 10 Lombard Street, Suite 410
San Francisco, CA 94111
Phone (415) 705-8520

----- Forwarded by Teresa Serata/DEM/SFGOV on 01/25/2011 06:15 PM -----

Brendan Murphy
<brendan.murphy@calema.ca.gov>

12/15/2010 12:44 PM

"Phillips, Laura"
<laura.phillips@sfgov.org>,
"Serata, Teresa"
<teresa.serata@sfgov.org>

To

cc

Subject

Fw: Cornerstone Review Letter
12-15.docx

FYI

From: Amanda Mesa
To: Brendan Murphy; Gina Buccieri-Harrington
Cc: Keri Nunez
Sent: Wed Dec 15 11:43:34 2010
Subject: FW: Cornerstone Review Letter 12-15.docx

Here is the link to the letter on the website.

[http://www.calema.ca.gov/WebPage/oeswebsite.nsf/OESBranchContentPortal?ReadForm&type=MiscellaneousReports&look=Grants Management&Div=Homeland+Security&Branch=Grants ManagementMiscellaneous Reports](http://www.calema.ca.gov/WebPage/oeswebsite.nsf/OESBranchContentPortal?ReadForm&type=MiscellaneousReports&look=Grants%20Management&Div=Homeland+Security&Branch=Grants%20ManagementMiscellaneous%20Reports)

-A

From: Keri Nunez

Sent: Wednesday, December 15, 2010 10:04 AM
To: Amanda Mesa; Gina Buccieri-Harrington
Cc: Brendan Murphy
Subject: Cornerstone Review Letter 12-15.docx

Amanda: This is the letter that needs to be posted to the website!

Thanks,
Keri(See attached file: Cornerstone Review Letter 12-15.docx)



December 15, 2010

Laura Phillips
Executive Director
Bay Area Urban Area Security Initiative
10 Lombard St Suite 410
San Francisco, CA 94111

Dear Ms. Phillips:

The Bay Area Urban Area Security Initiative (UASI) asked the California Emergency Management Agency (Cal EMA) to review the method and process by which the UASI awarded funds to complete "Project Cornerstone" which is a separate project inside of the Urban Area Security Initiative Grant program funded by United States Department of Homeland Security Grants and administered by Cal EMA. In this particular review an overview of Project Cornerstone will be given, but more importantly, some concerns about the project and possible solutions and recommendations for future projects will be discussed. However, this review is not a complete legal analysis. It is based on documents provided by the UASI.

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The Project Cornerstone Grant Process

The UASI subgranted the funding for Cornerstone to Alameda County who subgranted the funding to the East Bay Regional Communication System Authority (EBRCSA) where the EBRCSA signed a contract with Motorola based on the RFI completed by the City and County of San Francisco in accordance with procurement processes. This subgrant process brings up the first note of concern from Cal EMA. While there is no evidence that any of the process was unallowable or broke federal rules, this process could have been clarified or granted in an easier manner.

The Cornerstone grant could have been given directly to a San Francisco agency to complete the pilot project, which would have allowed for a single grant and a pilot project based on an RFI completed by the

same jurisdiction. Or, the UASI could have made the Cornerstone subgrant directly to the EBRCSA, which would have allowed for a much cleaner grant process and one subgrant to an eligible entity. While there does not appear to be any violation of grant rules with the way the subgrants were given, it is worth noting that there were some simple solutions to avoiding any appearance of obfuscation by making some choices that were available to the UASI and could have made this an easier grant process to follow.

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Similar to any Request for Proposal (RFP) process there has to be a process by which a pilot project pursuant to the reviewed RFI is approved and then acted upon by the UASI and EBRCSA. In the documents provided by the UASI and EBRCSA there was no such discussion of how the vendor for the pilot project, in this case Cornerstone, was selected. This review is not suggesting that there has to be the same level of review and rating of the respondents, as if this was an RFP. However, there should be some documentation as to how the specific pilot project was chosen from the RFI responses so that there can be clarity when the subgrant file is reviewed in the future. This clarification should explain why the specific Cornerstone vendor was selected over the other respondents and describe the decision making process that led to the establishment of the pilot.

Summary

There were no violations of federal or state grant rules with the process that the UASI used to subgrant funds to EBRCSA to complete Project Cornerstone. However, as noted above, there were a few areas of concern with recommendations to consider for future subgrants in the UASI. While Cal EMA recognizes the complexities with granting millions of dollars to partner agencies, we have found it is best to attempt to take the most direct route when subgranting. This is proven to be the most effective and efficient way to dispersing funds and we encourage our partner agencies to adopt a similar methodology.

We appreciate the opportunity to review Project Cornerstone, and we appreciate the proactive request by the Bay Area Urban Area Security Initiative (UASI) asking for Cal EMA's input.

Sincerely,



BRENDAN A. MURPHY
Director of Grants Management

Heather Tannehill-Plamondon

From: Teresa.Serata@SFGOV.ORG
Sent: Tuesday, January 25, 2011 6:15 PM
To: Heather.Tannehill-Plamondon@sfgov.org
Subject: Fw: PDF - PHILLIPS LETTER
Attachments: Document.pdf

Teresa Serata
Director of Strategy and Grant Compliance Bay Area UASI 10 Lombard Street, Suite 410
San Francisco, CA 94111
Phone (415) 705-8520

----- Forwarded by Teresa Serata/DEM/SFGOV on 01/25/2011 06:15 PM -----

Brendan Murphy
<brendan.murphy@c
alema.ca.gov>

12/15/2010 10:45
AM

"Serata, Teresa"
<teresa.serata@sfgov.org>,
"Phillips, Laura"
<laura.phillips@sfgov.org>

To

cc

Subject

Fw: PDF - PHILLIPS LETTER

We are posting the letter on the website today.

Brendan

----- Original Message -----

From: KERI.NUNEZ@CALEMA.CA.GOV <Keri.nunez@calema.ca.gov>
To: Brendan Murphy; Gina Buccieri-Harrington
Sent: Wed Dec 15 10:38:03 2010
Subject: PDF - PHILLIPS LETTER

(See attached file: Document.pdf)

Heather Tannehill-Plamondon

From: Teresa.Serata@SFGOV.ORG
Sent: Tuesday, January 25, 2011 6:16 PM
To: Heather tannehill-Plamondon
Subject: Fw: Review of Project Cornerstone Letter
Attachments: Cornerstone Agreement Review D1.docx

Teresa Serata
Director of Strategy and Grant Compliance Bay Area UASI 10 Lombard Street, Suite 410
San Francisco, CA 94111
Phone (415) 705-8520

----- Forwarded by Teresa Serata/DEM/SFGOV on 01/25/2011 06:16 PM -----

Brendan Murphy
<brendan.murphy@c
alema.ca.gov>

12/10/2010 01:21
AM

"Serata, Teresa"
<teresa.serata@sfgov.org>

To

cc

Subject

FW: Review of Project Cornerstone
Letter

Trying this again...

From: Brendan Murphy
Sent: Friday, December 10, 2010 1:16 AM
To: Serata, Teresa; heather.tannehill-plamondon@sfgov.org
Subject: FW: Review of Project Cornerstone Letter

Here is the draft of the review letter.

Brendan

From: Brendan Murphy
Sent: Friday, December 10, 2010 1:13 AM
To: Gina Buccieri-Harrington; Jessica Kirschbraun
Subject: Review of Project Cornerstone Letter

Hey, can you two review this letter for me tomorrow morning, if you have time? Thanks,

Brendan A. Murphy
Director of Grants Management
California Emergency Management Agency

Phone: (916) 322-2785

Cell: (916) 212-0837

(See attached file: Cornerstone Agreement Review D1.docx)



Cal EMA
CALIFORNIA EMERGENCY
MANAGEMENT AGENCY

December 10, 2010

Laura Phillips
Executive Director
Bay Area Urban Area Security Initiative
10 Lombard St Suite 410
San Francisco, CA 94111

Dear Ms. Phillips:

The Bay Area Urban Area Security Initiative (UASI) asked the California Emergency Management Agency (Cal EMA) to review the method and process by which the UASI awarded funds to complete "Project Cornerstone" which is a separate project funded by United States Department of Homeland Security Grants administered by Cal EMA. This particular review deals with "Project Cornerstone" (Cornerstone) an overview of Project Cornerstone will be given, but more importantly some concerns about the project will be discussed and possible solutions and recommendations for future projects.

On behalf of the UASI Interoperable Team, the City and County of San Francisco issued a Request For Information (RFI) on September 29, 2009. This RFI requested respondents to reply with their ideas for how a regional 700 megahertz Wireless Mobile Broadband Network could be implemented in the Bay Area. These RFI responses were due approximately 60 days later. The RFI had a clause on the first page that stipulated that the RFI may be used to develop a pilot project pursuant to the San Francisco Administrative Code, Chapter 21, Regulation 21.5E (Page 26 of the Purchasing Rules and Regulations). The pilot project turned into Cornerstone. In a non-technical paraphrase, the Cornerstone project is the demonstration phase of the information included in the RFI. Cornerstone was designed to possibly lend credence to a technology or help set the groundwork for a larger 700 MHz Bay Area Project based either on the tested technology or the information gained by testing the technology.

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The Cornerstone grant could have been given directly to a San Francisco agency to complete the pilot project which would have allowed for a single grant and a pilot project based on an RFI completed by the same jurisdiction. Or, the UASI could have made the Cornerstone subgrant directly to the EBRCSA which would have allowed for a much cleaner grant process and one subgrant to an eligible entity. While

there does not appear to be any violation of grant rules with the way the subgrants were given, it is worth noting that there were some simple solutions to avoiding any appearance of obfuscation by making some choices that were available to the UASI and could have made this an easier grant process to follow.

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Summary

There were no violations of federal or state grant rules with the process that the UASI used to subgrant funds to EBRCSA to complete Project Cornerstone. However, this review did have a few notes of concern for this project and for future considerations related to subgrants in the UASI. While Cal EMA recognizes the complexities with granting millions of dollars to partner agencies we have found it is best to attempt to take the easiest way possible approach the subgranting process. Meaning in most circumstances the most direct route is the easiest and safest route to subgranting funds and we encourage our partner agencies to attempt to use a similar theory for granting.

We appreciate the opportunity to review Project Cornerstone and we appreciate the proactive request by the Bay Area Urban Area Security Initiative (UASI) asking for Cal EMA's input.

Sincerely,

BRENDAN A. MURPHY
Director of Grants Management

Heather

Microsoft Office Outlook – Memo Style
02/09/11 12:10 PM