



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

Mr. Chuck Reed
Mayor, City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

OCT 01 2008

Mr. Jeffrey V. Smith
County Executive, County of Santa Clara
70 West Hedding Street
San Jose, CA 95110

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Dear Mayor Reed and County Executive Smith:

The Department of Commerce (DOC) and the National Telecommunications and Information Administration (NTIA) have received your letter regarding the San Francisco Bay Area Wireless Enhanced Broadband Project (BayWEB), which recently was awarded a grant under the Broadband Technology Opportunities Program (BTOP). Your letter requested that the grant award for the BayWEB project be suspended or postponed until concerns regarding the procurement and vendor selection process have been addressed.

As part of the BTOP programmatic review, NTIA reviewed the Memorandum of Understanding (MOU) dated July 1, 2007 between the five local governments that created the Bay Area Urban Area Security Initiative (Bay Area UASI). According to the MOU, the Bay Area UASI General Manager (GM) is empowered by the MOU participants, including the City of San Jose and County of Santa Clara, to lead and execute interoperable communications initiatives on behalf of its members. The Bay Area Regional Interoperable Communications System (BayRICS) was established in 2007 to take advantage of the regional cooperation permitted by the Bay Area UASI.

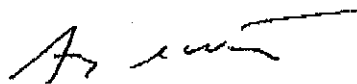
It is NTIA's understanding that, consistent with the authority in the MOU, the UASI GM authorized the BayRICS Policy Group, the governing body of BayRICS, to lead a public safety broadband effort, and selected the Alameda County Sheriff (Sheriff) to the head the effort. Our information indicates that, acting in this capacity on behalf of BayRICS, the Sheriff entered into a Public Private Cooperative Agreement on March 15, 2010 with Motorola, Inc. (Motorola) to partner on the construction of a regional 700 MHz wireless mobile broadband network known as BayWEB. As directed by that agreement, Motorola submitted a BTOP grant application for the BayWEB project (EGID 7309).

The Notice of Funds Availability (Second NOFA), published in the *Federal Register* on January 22, 2010, outlines the application and review process for all Round Two BTOP applications. The application submitted by Motorola was evaluated and considered in accordance with the procedures and requirements established in the Second NOFA. Motorola was selected for a grant award based on an objective review pursuant to the criteria in the Second NOFA. In making this award, NTIA relied upon a wide array of factors and evidence, including the endorsements of the City of San Jose and County of Santa Clara, as evidenced by their participation in the MOU and separate correspondence encouraging NTIA to award the grant. Further, NTIA found no reason to question the process, described above, by which your jurisdictions and others chose to seek and benefit from BTOP.

As with all BTOP grants, NTIA will oversee the BayWEB project to ensure that the grantee, Motorola, carries out the project in accordance with the terms of the grant award and any modification terms approved by NTIA. NTIA is dedicated to the efficient and effective disbursement of all grant funds made available under the American Recovery and Reinvestment Act of 2009. To date, we are in receipt of no factor that calls into question Motorola's ability or intent to execute this project in accordance with the grant terms. While we have no authority over the procurement practices of the City of San Jose and County of Santa Clara, your participation in and support of the BayWEB project, as described above and as reiterated in your more recent letter, reinforces our conclusion that no postponement or suspension of the grant is warranted. NTIA looks forward to continuing to work with the grantee and, as necessary, other stakeholders for the benefit of the Bay Area citizens.

Thank you for sharing your concerns regarding this project. If you have further questions, please contact Lance Johnson, BTOP Federal Program Officer, at (202) 482-5032.

Sincerely,



Anthony G. Wilhelm
Director, Broadband Technology Opportunities Program