

## 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.

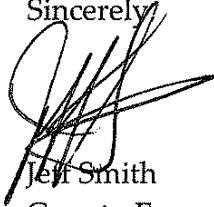
Finally, and perhaps most important, **no public vote was ever taken** to partner with Motorola. Not by the non-existent Bay RICS Policy Group, not by the UASI Approval Authority, nor by any local city and county. At the October 12 meeting, the UASI General Manager confirmed that no one voted for this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