



Agenda Item No. 3.a.

To: Finance-Auditing Committee/Committee of the Whole
Meeting of May 22, 2008

From: Gayle S. Prior, Director of Capital and Grant Programs
Joseph M. Wire, Auditor-Controller
Celia G. Kupersmith, General Manager

Subject: **AUTHORIZE ACTIONS RELATIVE TO THE FILING OF A GRANT APPLICATION WITH THE U.S. DEPARTMENT OF HOMELAND SECURITY FOR FISCAL YEAR 2006/2007**

Recommendation

The Finance-Auditing Committee recommends that the Board of Directors adopt a resolution authorizing the General Manager or her designee to execute for and on behalf of the District any actions necessary, including executing and submitting related certifications and assurances, relative to the filing of a grant application with the U.S. Department of Homeland Security for FY 06/07.

Summary

In March 2007 and December 2007, the District filed an application with U.S. Department of Homeland Security (DHS) for FY 06/07 Transit Security Grant Program (TSGP) funds in the amount of \$841,503 to support implementation of the following projects:

1. Ferry Security Shelter Enhanced Security & Preparedness: Will purchase and install an upgraded digital video security system for the Ferry Division; \$318,503 grant funds.
2. San Rafael Bus Yard Security: Will complete the purchase and installation of security cameras, fencing and electronic gates at the main entrance, motion detection devices and access control devices at the San Rafael Bus Yard; \$322,000 grant funds, \$201,000 supplemental grant funds.

The Governor's Office of Homeland Security (OHS), designated as the State Administrative Agency, is responsible for administering the TSGP funds for California on behalf of DHS. OHS requires project applicants to adopt a resolution appointing individuals or positions to act on behalf of the applicant and its governing body and to provide related certifications and assurances as provided in Attachment A. This item authorizes actions necessary in order to secure FY 06/07 TSGP funds to support transit security capital projects.

Fiscal Impact

This item authorizes actions relative to the filing of an application for grant funds that provide \$841,503 to support transit capital projects.

Attachment

Office of Homeland Security
Grant Assurances

1. Agrees to comply with financial and administrative requirements set forth in the current edition of the Office of Grant Operations (OGO) Financial Management Guide.
2. Agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide, Chapter 19.
3. Understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of G&T.
4. Agrees that federal funds under this award will be used to supplement but not supplant recipient or sub-recipient funds.
5. Further agrees to comply with the standards put forth in Office of Management and Budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments.
6. Agrees that all allocations and use of funds under this grant will be in accordance with the Fiscal Year 2007 Transit Security Grant Program Guidelines and Application Kit and must support the goals and objectives in each agency's Security and Emergency Preparedness Plan (SEPP) and the approved Regional Traits Security Strategy (RTSS).
7. The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
8. The Department of Homeland Security (US-DHS) has elected to enter into cooperative agreements with recipients of FY 2007 Transit Security Grant Program Supplemental Funding (TSGP-SF) identified as Tier I regions within the FY 2007 TSGP Supplemental Funding Program Guidance and Application Kit. The nature of the Federal involvement in the execution of this program may range from joint conduct of a Tier I subgrant project to prior approval of a new Tier I subgrant project or the next phase of an approved Tier I subgrant project. Examples of substantial involvement include the following:
 - a. Collaboration, participation, and/or intervention in any Tier I activity covered by the cooperative agreement;
 - b. Approval from US-DHS prior to the selection of a new Tier I subgrant project or commencement of the next phase of an approved Tier I activity if detailed performance specifications are not met;
 - c. Authority for US-DHS, to direct or redirect the scope of work of a Tier I subgrant project based on new circumstances; and,
 - d. Authority for US-DHS to create a working group of key Federal and private sector stakeholders to provide guidance and coordination for transit security activities.

9. The recipient may obligate, expend, or draw down no more than 5% of the total regional allocation available to eligible rail and intra-city bus transit systems until US-DHS/SLGCP has received the documents listed in a., b., and c., below; has received, reviewed, and approved the Regional Transit Security Strategy listed in d. below; and has issued a Grant Adjustment Notice (GAN) removing this special condition.
 - a. All of the Applicable Transit System Risk Assessments
 - b. All of the Applicable Security and Emergency Preparedness Plans
 - c. The Certification Regarding Regional consensus on Funding Allocations
 - d. The Regional Transit Security Strategy

10. Will comply with all federal statutes relating to nondiscrimination. These include but are not limited to:
 - a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin;
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibits discrimination on the basis of handicaps;
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age;
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to nondiscrimination on the basis of drug abuse;
 - f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - g. §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
 - i. Title 28, Code of Federal Regulations, Part 42, Subparts C, D, E and G;
 - j. Title 28, CFR, Part 35;
 - k. Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made, and
 - l. The requirements on any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of federal participation in purchases.

12. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

13. Will comply with environmental standards which may be prescribed pursuant to the following:
 - a. institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - b. notification of violating facilities pursuant to EO 11738;
 - c. protection of wetlands pursuant to EO 11990;
 - d. evaluation of flood hazards in floodplains in accordance with EO 11988;
 - e. assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
 - f. conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.);
 - g. protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and
 - h. protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-206).
14. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
15. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq).
16. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and CCR Title 19, Sections 2445, 2446, 2447 and 2448.
17. Has requested through the State of California, federal financial assistance to be used to perform eligible work approved in the applicant's application for federal assistance. Will, after the receipt of federal financial assistance, through the State of California, agree to the following:
 - a. Promptly return to the State of California all the funds received which exceed the approved, actual expenditures as accepted by the federal or state government.
 - b. In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
 - c. Separately account for interest earned on grant funds, and will return all interest earned, in excess of \$100 per federal fiscal year.
18. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
19. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

20. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
21. Will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
22. Will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
23. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally assisted construction sub-agreements.
24. Is not itself, and will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."
25. Agrees that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
 - b. If any other funds than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a Member of Congress in connection with the federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
 - c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers including subgrants, contracts under grants and cooperative agreements, and subcontract(s) and that all sub recipients shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

26. Agrees that equipment acquired or obtained with grant funds:
 - a. Will be made available under the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant.
 - b. Is consistent with needs as identified in the Terrorism Annex to the State's Emergency Plan, and will be deployed in conformance with that plan.
 - c. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.
27. Agrees that funds awarded under this grant will be used to supplement existing funds for program activities, and will not supplant (replace) non-federal funds.
28. Will comply with all applicable Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars A-87 and A-133, E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements contained in Title 28, Code of Federal Regulations, Part 66, that govern the application, acceptance and use of Federal funds for this federally-assisted project.
29. Will comply, and assure the compliance of all its subgrantees and contractors, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provision of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1, and all other applicable Federal laws, orders, circulars, or regulations.
30. Will comply with provisions of 28 CFR applicable to grants and cooperative agreements, including Part 18, Administrative Review Procedures; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 64, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
31. Will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
32. Will comply with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.
33. Will, in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds or race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.

34. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
35. Will comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
36. Will comply, if applicable, with the provision of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
37. Will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.
38. Understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.
The undersigned represents that he/she is authorized by the above named applicant to enter into this agreement for and on behalf of the said applicant.