



AGENDA

BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified just below.

MEETING LOCATION Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

Regular Meeting October 13, 2015

TELECONFERENCE LOCATIONS: 1) First and Second Meetings of Each Month: Mammoth Lakes CAO Conference Room, 3rd Floor Sierra Center Mall, 452 Old Mammoth Road, Mammoth Lakes, California, 93546; 2) Third Meeting of Each Month: Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517. Board Members may participate from a teleconference location. Note: Members of the public may attend the open-session portion of the meeting from a teleconference location, and may address the board during any one of the opportunities provided on the agenda under Opportunity for the Public to Address the Board.

NOTE: In compliance with the Americans with Disabilities Act if you need special assistance to participate in this meeting, please contact the Clerk of the Board at (760) 932-5534. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517), and in the County Offices located in Minaret Mall, 2nd Floor (437 Old Mammoth Road, Mammoth Lakes CA 93546). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB:** You can view the upcoming agenda at www.monocounty.ca.gov. If you would like to receive an automatic copy of this agenda by email, please send your request to Bob Musil, Clerk of the Board: bmusil@mono.ca.gov.

UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.

9:00 AM Call meeting to Order

Pledge of Allegiance

1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

2. APPROVAL OF MINUTES - NONE

3. RECOGNITIONS - NONE

4. BOARD MEMBER REPORTS

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

5. COUNTY ADMINISTRATIVE OFFICE

CAO Report regarding Board Assignments
Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

6. DEPARTMENT/COMMISSION REPORTS

7. CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

A. July & August Treasury Transaction Reports

Departments: Finance

Treasury Transaction Reports for the months of July & August 2015.

Recommended Action: Approve the Treasury Transaction Reports for the months of July & August 2015.

Fiscal Impact: None

B. FY 2015-2016 Department of Boating and Waterways Equipment Grant

Departments: Sheriff

The Mono County Sheriff's Office has received the annual Equipment Grant contract from the California Department of Boating and Waterways in the amount of \$15,050.00.

Recommended Action: 1. For the Board of Supervisors to authorize the Sheriff's Office to participate in our annual California Department of Boating and Waterways Equipment Grant program for fiscal year 2015-2016. 2. Authorize the Board of Supervisors to sign the contract via Minute Order with the California Department of Boating and Waterways for fiscal year 2015-2016. 3. Amend the fiscal year 2015-2016 Board approved budget as follows: increase projected revenues in Federal Boating and Waterways Grant by \$15,050 and increase appropriations is Special Department Expense and Equipment Maintenance and Repair by \$5,350 and \$9,700, respectively (4/5ths vote required.) 4. Authorize Sheriff Ingrid Braun to

sign all contract and reimbursement forms for said contract.

Fiscal Impact: The grant amount of \$15,050.00 will cover the equipment costs of the boating program and will have no impact to the general fund.

8. CORRESPONDENCE RECEIVED (INFORMATIONAL) - NONE

All items listed are located in the Office of the Clerk of the Board, and are available for review.

9. REGULAR AGENDA - MORNING

A. Response to Grand Jury Report

Departments: Board of Supervisors, CAO, County Counsel

15 minutes (5 minute presentation; 10 minute discussion)

(Lynda Salcido, Marshall Rudolph) - Response by Board of Supervisors to the 2014-15 Mono County Grand Jury's final report.

Recommended Action: Consider proposed, draft letter responding to the grand jury report. Approve and authorize the Board Chair to sign the Board's response letter, with such revisions to the draft letter as the Board may deem appropriate.

Fiscal Impact: None.

B. Strategic Plan 2015-16 Priorities and Timeline

Departments: Board of Supervisors

1 hour (15 minute presentation; 45 minute discussion)

(Stacy Corless) - Presentation of 2015-16 strategic plan priorities and activities, developed from Board of Supervisors feedback (following the July 7 strategic plan workshop) and final budget approval.

Recommended Action: Approve 2015-16 strategic plan priorities and activities.

10. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

11. CLOSED SESSION

A. Closed Session--Human Resources

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, and Lynda Salcido. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono

County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

B. Closed Session - Conference with Legal Counsel

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: Luman v. Mono County Personnel Appeals Board et. al.

C. Closed Session - County Counsel Performance Evaluation

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.

D. Closed Session - Public Employment

PUBLIC EMPLOYMENT. Government Code section 54957. Title: HR Manager.

E. Closed Session - Public Employment

PUBLIC EMPLOYMENT. Government Code section 54957. Title: Risk Manager.

F. Closed Session - Public Employment

PUBLIC EMPLOYMENT. Government Code section 54957. Title: County Administrator.

ADJOURN



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

Departments: Finance

TIME REQUIRED

SUBJECT July & August Treasury Transaction Reports

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Treasury Transaction Reports for the months of July & August 2015.

RECOMMENDED ACTION:

Approve the Treasury Transaction Reports for the months of July & August 2015.

FISCAL IMPACT:

None

CONTACT NAME: Joanne K. Werthwein

PHONE/EMAIL: (760) 932-5487 / jwerthwein@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

- [Treasury Transaction Report for the month of July 2015](#)
- [Treasury Transaction Report for the month of August 2015](#)

History

Time

Who

Approval

9/30/2015 11:51 AM

County Administrative Office

Yes

10/6/2015 11:19 AM

County Counsel

Yes

9/24/2015 6:43 PM

Finance

Yes



Mono County

Transaction Summary by Action

All Portfolios

Begin Date: 6/30/2015, End Date: 7/31/2015

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
Buy Transactions									
Deposit	7/15/2015	LAIIF6000Q	17,318.62	Local Agency Investment Fund L-GIP-Quarterly	100.00	17,318.62	0.00	0.00	17,318.62
Deposit	7/27/2015	OAKVALLEY0670	406.73	Oak Valley Bank Cash	100.00	406.73	0.00	0.00	406.73
Deposit	7/31/2015	OAKVALLEY0670	1,356.68	Oak Valley Bank Cash	100.00	1,356.68	0.00	0.00	1,356.68
Deposit	7/31/2015	OAKVALLEY0670	15,806,898.96	Oak Valley Bank Cash	100.00	15,806,898.96	0.00	0.00	15,806,898.96
Subtotal			15,825,980.99			15,825,980.99	0.00		15,825,980.99
Total Buy Transactions			15,825,980.99			15,825,980.99	0.00		15,825,980.99
Interest/Dividends									
Interest	7/1/2015	23130SCQ4	0.00	CURRIE ST BK CURRIE MN 0.6 7/29/2016		0.00	120.82	0.00	120.82
Interest	7/10/2015	35471TBU5	0.00	FRANKLIN SYNERGY BANK FRANKLIN TN 0.5 8/10/2016		0.00	100.69	0.00	100.69
Interest	7/15/2015	717081DD2	0.00	Pfizer Inc 0.9 1/15/2017 -14		0.00	2,250.00	0.00	2,250.00
Interest	7/15/2015	34387ABA6	0.00	FLUSHING BANK N Y 1.8 12/10/2018		0.00	362.47	0.00	362.47
Interest	7/16/2015	94974BF60	0.00	Wells Fargo 1.5 1/16/2018		0.00	3,750.00	0.00	3,750.00
Interest	7/21/2015	3135G0A78	0.00	FNMA 1.625 1/21/2020		0.00	8,125.00	0.00	8,125.00
Interest	7/21/2015	33764JPM1	0.00	First Bank Puerto Rico 0.9 11/23/2015		0.00	184.93	0.00	184.93
Interest	7/22/2015	140420RD4	0.00	CAPITAL ONE BANK USA NATL ASSN 1.8 1/22/2020		0.00	2,186.88	0.00	2,186.88
Interest	7/23/2015	05580ABB9	0.00	BMW Bank of North America 1.35 1/23/2018		0.00	1,640.16	0.00	1,640.16
Interest	7/26/2015	20070PHK6	0.00	COMMERC ST BK WEST BEND WIS 1.65 9/26/2019		0.00	332.26	0.00	332.26
Interest	7/26/2015	91330ABA4	0.00	UNITY BK CLINTON NJ 1.5 9/26/2019		0.00	302.05	0.00	302.05
Interest	7/27/2015	35637RCQ8	0.00	FREEDOM FIN BK W DES MOINES 1.5 7/26/2019		0.00	302.05	0.00	302.05
Interest	7/27/2015	596689EC9	0.00	MIDDLETON COMMUNITY BANK 1.4 11/27/2018		0.00	281.92	0.00	281.92
Interest	7/27/2015	OAKVALLEY0670	0.00	Oak Valley Bank Cash		0.00	406.73	0.00	406.73
Interest	7/28/2015	20786ABA2	0.00	CONNECTONE BK ENGLEWOOD 1.55 7/29/2019		0.00	312.12	0.00	312.12
Interest	7/28/2015	46625HJR2	0.00	JPMORGAN CHASE 2.35 1/28/2019		0.00	11,750.00	0.00	11,750.00
Interest	7/28/2015	59013JDB2	0.00	MERRICK BK SOUTH JORDAN UTAH 0.85 1/30/2017		0.00	171.16	0.00	171.16
Interest	7/28/2015	464209CD5	0.00	ISABELLA BANK 0.75 3/28/2017		0.00	151.03	0.00	151.03



Mono County

Transaction Summary by Action

All Portfolios

Begin Date: 6/30/2015, End Date: 7/31/2015

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
Interest	7/29/2015	139797FF6	0.00	CAPITAL BK LITTLE ROCK 0.9 2/28/2018		0.00	181.23	0.00	181.23
Interest	7/30/2015	06414QVT3	0.00	BANK NORTH CAROLINA THOMASVILLE NC 1 6/30/2017		0.00	201.37	0.00	201.37
Interest	7/30/2015	560160A06	0.00	MAHOPAC NATL BK N Y 1.45 7/30/2019		0.00	1,761.65	0.00	1,761.65
Interest	7/31/2015	OAKVALLEY0670	0.00	Oak Valley Bank Cash		0.00	1,356.68	0.00	1,356.68
Subtotal			0.00			0.00	36,231.20		36,231.20
Total Interest/Dividends							0.00	36,231.20	36,231.20
Sell Transactions									
Withdraw	7/1/2015	LAIF6000Q	1,250,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	1,250,000.00	0.00	0.00	1,250,000.00
Withdraw	7/9/2015	LAIF6000Q	1,500,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	1,500,000.00	0.00	0.00	1,500,000.00
Withdraw	7/14/2015	LAIF6000Q	1,000,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	1,000,000.00	0.00	0.00	1,000,000.00
Withdraw	7/17/2015	LAIF6000Q	5,000,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	5,000,000.00	0.00	0.00	5,000,000.00
Withdraw	7/24/2015	LAIF6000Q	1,000,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	1,000,000.00	0.00	0.00	1,000,000.00
Withdraw	7/31/2015	LAIF6000Q	2,000,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	2,000,000.00	0.00	0.00	2,000,000.00
Withdraw	7/31/2015	OAKVALLEY0670	15,463,417.44	Oak Valley Bank Cash	0.00	15,463,417.44	0.00	0.00	15,463,417.44
Subtotal			27,213,417.44			27,213,417.44	0.00		27,213,417.44
Total Sell Transactions							27,213,417.44	0.00	27,213,417.44



Mono County

Transaction Summary by Action

All Portfolios

Begin Date: 7/31/2015, End Date: 8/31/2015

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
Sell Transactions									
Called	8/27/2015	3130A47J5	1,000,000.00	FHLB 1.625 2/27/2019-15	0.00	1,000,000.00	0.00	0.00	1,000,000.00
	Subtotal		1,000,000.00			1,000,000.00	0.00		1,000,000.00
Matured	8/15/2015	358266BU7	500,000.00	Fresno Pension OB 4.408 8/15/2015	0.00	500,000.00	0.00	0.00	500,000.00
Matured	8/26/2015	06062AXU8	250,000.00	BANK OF BARODA NEW YORK 0.5 8/26/2015	0.00	250,000.00	0.00	0.00	250,000.00
	Subtotal		750,000.00			750,000.00	0.00		750,000.00
Withdraw	8/26/2015	LAIF6000Q	2,000,000.00	Local Agency Investment Fund LGIP-Quarterly	0.00	2,000,000.00	0.00	0.00	2,000,000.00
Withdraw	8/31/2015	OAKVALLEY0670	8,810,948.18	Oak Valley Bank Cash	0.00	8,810,948.18	0.00	0.00	8,810,948.18
	Subtotal		10,810,948.18			10,810,948.18	0.00		10,810,948.18
Total Sell Transactions			12,560,948.18			12,560,948.18	0.00		12,560,948.18
Buy Transactions									
Deposit	8/11/2015	OAKVALLEY0670	495.80	Oak Valley Bank Cash	100.00	495.80	0.00	0.00	495.80
Deposit	8/31/2015	OAKVALLEY0670	1,204.11	Oak Valley Bank Cash	100.00	1,204.11	0.00	0.00	1,204.11
Deposit	8/31/2015	OAKVALLEY0670	8,720,079.89	Oak Valley Bank Cash	100.00	8,720,079.89	0.00	0.00	8,720,079.89
	Subtotal		8,721,779.80			8,721,779.80	0.00		8,721,779.80
Total Buy Transactions			8,721,779.80			8,721,779.80	0.00		8,721,779.80
Interest/Dividends									
Interest	8/11/2015	932889VJ4	0.00	WALNUT VALLEY CA USD 2 8/1/2018	0.00	0.00	5,000.00	0.00	5,000.00
Interest	8/11/2015	23130SC04	0.00	CURRIE ST BK CURRIE MN 0.6 7/29/2016	0.00	0.00	124.85	0.00	124.85
Interest	8/11/2015	83412PDV1	0.00	Solano Co Community College 1.384 8/1/2017	0.00	0.00	1,730.00	0.00	1,730.00
Interest	8/11/2015	503678QF8	0.00	La Mesa Spring Valley SD 1.886 8/1/2017	0.00	0.00	4,715.00	0.00	4,715.00
Interest	8/2/2015	909552AT8	0.00	UNITED BK VERNON ROCKVILLE CT 0.6 8/2/2016	0.00	0.00	728.96	0.00	728.96
Interest	8/5/2015	87164DGN4	0.00	SYNOVUS BANK 0.85 2/6/2017	0.00	0.00	1,032.69	0.00	1,032.69
Interest	8/10/2015	35471TBU5	0.00	FRANKLIN SYNERGY BANK FRANKLIN TN 0.5 8/10/2016	0.00	0.00	104.04	0.00	104.04
Interest	8/11/2015	OAKVALLEY0670	0.00	Oak Valley Bank Cash	0.00	0.00	495.80	0.00	495.80
Interest	8/15/2015	358266BU7	0.00	Fresno Pension OB 4.408 8/15/2015	0.00	0.00	11,020.00	0.00	11,020.00
Interest	8/15/2015	34387ABA6	0.00	FLUSHING BANK N Y 1.8 12/10/2018	0.00	0.00	374.55	0.00	374.55



Mono County

Transaction Summary by Action

All Portfolios

Begin Date: 7/31/2015, End Date: 8/31/2015

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
Interest	8/21/2015	3134G6XX6	0.00	FHLMC 1.5 2/21/2019-15		0.00	7,500.00	0.00	7,500.00
Interest	8/21/2015	33764JPM1	0.00	First Bank Puerto Rico 0.9 11/23/2015		0.00	191.10	0.00	191.10
Interest	8/26/2015	06062AXU8	0.00	BANK OF BARODA NEW YORK 0.5 8/26/2015		0.00	934.93	0.00	934.93
Interest	8/26/2015	20070PHK6	0.00	COMMERCE ST BK WEST BEND WIS 1.65 9/26/2019		0.00	343.34	0.00	343.34
Interest	8/26/2015	91330ABA4	0.00	UNITY BK CLINTON NJ 1.5 9/26/2019		0.00	312.12	0.00	312.12
Interest	8/27/2015	3130A47J5	0.00	FHLB 1.625 2/27/2019-15		0.00	8,125.00	0.00	8,125.00
Interest	8/27/2015	35637RCQ8	0.00	FREEDOM FIN BK W DES MOINES 1.5 7/26/2019		0.00	312.12	0.00	312.12
Interest	8/27/2015	596689EC9	0.00	MIDDLETON COMMUNITY BANK 1.4 11/27/2018		0.00	291.32	0.00	291.32
Interest	8/28/2015	20786ABA2	0.00	CONNECTONE BK ENGLEWOOD 1.55 7/29/2019		0.00	322.53	0.00	322.53
Interest	8/28/2015	59013JDB2	0.00	MERRICK BK SOUTH JORDAN UTAH 0.85 1/30/2017		0.00	176.87	0.00	176.87
Interest	8/28/2015	464209CD5	0.00	ISABELLA BANK 0.75 3/28/2017		0.00	156.06	0.00	156.06
Interest	8/29/2015	139797FF6	0.00	CAPITAL BK LITTLE ROCK 0.9 2/28/2018		0.00	187.27	0.00	187.27
Interest	8/30/2015	06414QVT3	0.00	BANK NORTH CAROLINA THOMASVILLE NC 1 6/30/2017		0.00	208.08	0.00	208.08
Interest	8/31/2015	OAKVALLEY0670	0.00	Oak Valley Bank Cash		0.00	1,204.11	0.00	1,204.11
Subtotal			0.00			0.00	45,590.74		45,590.74
Total Interest/Dividends			0.00			0.00	45,590.74		45,590.74



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

Departments: Sheriff

TIME REQUIRED

SUBJECT FY 2015-2016 Department of
Boating and Waterways Equipment
Grant

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The Mono County Sheriff's Office has received the annual Equipment Grant contract from the California Department of Boating and Waterways in the amount of \$15,050.00.

RECOMMENDED ACTION:

1. For the Board of Supervisors to authorize the Sheriff's Office to participate in our annual California Department of Boating and Waterways Equipment Grant program for fiscal year 2015-2016. 2. Authorize the Board of Supervisors to sign the contract via Minute Order with the California Department of Boating and Waterways for fiscal year 2015-2016. 3. Amend the fiscal year 2015-2016 Board approved budget as follows: increase projected revenues in Federal Boating and Waterways Grant by \$15,050 and increase appropriations in Special Department Expense and Equipment Maintenance and Repair by \$5,350 and \$9,700, respectively (4/5ths vote required.) 4. Authorize Sheriff Ingrid Braun to sign all contract and reimbursement forms for said contract.

FISCAL IMPACT:

The grant amount of \$15,050.00 will cover the equipment costs of the boating program and will have no impact to the general fund.

CONTACT NAME: Jennifer Hansen

PHONE/EMAIL: 760-932-5279 / jhansen@monosheriff.org

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[📄 Staff Report - Boating and Waterways Equipment Grant](#)

[📄 Boating and Waterways Equipment Grant](#)

History

Time	Who	Approval
9/30/2015 11:49 AM	County Administrative Office	Yes
10/6/2015 11:17 AM	County Counsel	Yes
9/25/2015 11:44 AM	Finance	Yes



P.O. Box 616 • 49 BRYANT STREET • BRIDGEPORT, CA 93517 • (760) 932-7549 • WWW.MONOSHERIFF.ORG

DATE: October 13, 2015
TO: The Honorable Board of Supervisors
FROM: Ingrid Braun, Sheriff-Coroner
SUBJECT: FY 2015-2016 Department of Boating and Waterways Equipment Grant

RECOMMENDATION:

1. For the Board of Supervisors to authorize the Sheriff's Office to participate in our annual California Department of Boating and Waterways Equipment Grant program for fiscal year 2015-2016.
2. Authorize the Board of Supervisors to sign the contract via Minute Order with the California Department of Boating and Waterways for fiscal year 2015-2016.
3. Amend the fiscal year 2015-16 Board Approved Budget as follows: Increase projected revenues in Federal Boating and Waterways Grant by \$15,050 and increase appropriations in Special Department Expense and Equipment Maintenance and Repair by \$5,350 and \$9,700, respectively. (4/5ths vote required)
4. Authorize Sheriff Ingrid Braun to sign all contract and reimbursement forms for said contract.

DISCUSSION:

The Mono County Sheriff's Office has received the annual Equipment Grant contract from the California Department of Boating and Waterways in the amount of \$15,050.00 for the period of October 1, 2015 – October 1, 2016. This grant funds the necessary equipment needs for our boating safety programs and law enforcement on the waterways of Mono County.

FINANCIAL IMPACT:

The grant amount of \$15,050.00 will cover the equipment costs of the boating program and will have no impact to the general fund.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "IB", written over a light blue horizontal line.

Ingrid Braun
Sheriff-Coroner

State of California – Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION
DIVISION OF BOATING AND WATERWAYS

GRANT AGREEMENT

GRANTEE: Mono County Sheriff's Department

THE TERM OF THIS AGREEMENT IS: October 1, 2015 through October 1, 2016

GRANT TITLE: LAW ENFORCEMENT EQUIPMENT GRANT PROGRAM

GRANT NUMBER: C15L0605

The Grantee agrees to the terms and conditions of this contract, hereinafter referred to as Agreement, and the State of California, acting through its Director of Parks and Recreation, Division of Boating and Waterways, agrees to fund the total State grant amount indicated below. The GRANTEE agrees to complete the SCOPE OF WORK as defined in the Agreement.

The General and Special Provisions attached are made a part of and incorporated into the Agreement.

Grantee: Mono County Sheriff's Department	Agency: Department of Parks and Recreation Division of Boating and Waterways
ATTN: Mark Hanson	ATTN: Corrina Dugger
Address: 100 Bryant Street, P.O. Box 616 Bridgeport, CA 93517	Address: One Capitol Mall, Suite 500 Sacramento, CA 95814
BY: <u></u> (Authorized Signature)	BY: _____ (Authorized Signature)
<u>MARK HANSON, SHERIFF</u>	Ramona Fernandez, Chief of Operations
Printed Name and Title of Authorized Representative	Printed Name and Title
Date: <u>9.22.15</u>	Date: _____

**CERTIFICATE OF FUNDING
(FOR STATE USE ONLY)**

GRANTEE: Mono County Sheriff's Department

THE TERM OF THIS AGREEMENT IS: October 1, 2015 through October 1, 2016

GRANT TITLE: LAW ENFORCEMENT EQUIPMENT GRANT PROGRAM

GRANT NUMBER: C15L0605

CONTRACT NO C15L0605	AMENDMENT NO	CALSTARS VENDOR NO 400000000808		PROJECT NO
AMOUNT ENCUMBERED BY THIS DOCUMENT \$15,050.00	FUND TITLE Federal Trust Fund #0890		AGENCY BILLING CODE NO 032011	
PRIOR AMOUNT ENCUMBERED BY THIS DOCUMENT \$0	ITEM 3790-101-0890	CHAPTER 10	STATUTE 2015	FISCAL YEAR 2015/16
TOTAL AMOUNT ENCUMBERED TO DATE \$15,050.00	INDEX 1706	OBJECT CODE 702	PCA CODE 68113	PROJECT/WORK PHASE
T.B.A. NO	I hereby certify upon my own personal knowledge that the budgeted funds are available for this encumbrance.			
B.R.NO	ACCOUNTING OFFICER'S SIGNATURE		DATE	

**BOATING SAFETY AND ENFORCEMENT
GRANT AGREEMENT**

**Mono County Sheriff's Department
EQUIPMENT GRANT # C15L0605**



**State of California
Department of Parks and Recreation
Division of Boating and Waterways**

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BOATING SAFETY AND ENFORCEMENT GRANT

EQUIPMENT AND OPERATION CONTRACT

This Grant Agreement C15L0605 is entered into on October 1, 2015 between the State of California, Department of Parks and Recreation, Division of Boating and Waterways (DEPARTMENT) and the Mono County Sheriff's Department (GRANTEE). The DEPARTMENT and the GRANTEE agree as follows:

1. CONTRACT

This Contract includes

EXHIBIT A, Standard Terms and Conditions

EXHIBIT B, General Terms and Conditions

EXHIBIT C, 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and

EXHIBIT D, Circular No. A-128, Audits of State and Local Government,

EXHIBIT E, Suggested Language for Recycling Certification, Contractor Certification Clauses, DVBE, and Darfur Act,

EXHIBIT F, Darfur Contracting Act.

2. GRANT

The DEPARTMENT will make a grant to the GRANTEE of up to \$ 15,050.00 (Fifteen Thousand Fifty and 00/100). This GRANT shall not exceed this amount, shall be made using Federal funds, and shall be used to purchase MISCELLANEOUS EQUIPMENT (Safety Equipment, Vehicle Operations and Maintenance) in accordance with **EXHIBIT A.**

	Line Item	Qty	Rate	UOM	Total
1	Equipment				
	Safety Equipment Notes : Mustang Survival - Ice Commander Rescue Suit	2.0000	1100.000	EA	2,200.00
	Safety Equipment Notes : Mustang Survival - HIT Inflatable PFD for Law Enforcement	6.0000	433.330	EA	2,600.00
	Safety Equipment Notes : Basic Commercial Type 1 Life Vests 6 Adult / 6 Youth	12.0000	45.830	EA	550.00
	Vehicle Operations and Maintenance Notes : Repaint Design Concepts Patrol Boat	1.0000	7525.000	EA	7,525.00
	Vehicle Operations and Maintenance Notes : Replace Bimini Top on Jet Craft Patrol Boat	1.0000	1075.000	EA	1,075.00
	Vehicle Operations and Maintenance Notes : Replace Winch on Jet Craft Patrol Boat Trailer	1.0000	275.000	EA	275.00
	Vehicle Operations and Maintenance Notes : Replace Jet Craft patrol Boat Bilge Pumps	1.0000	275.000	EA	275.00
	Vehicle Operations and Maintenance Notes : Replace Jet Craft Patrol Boat Fuel Guage and Sending Unit.	1.0000	550.000	EA	550.00
Total for Equipment					15,050.00
TOTAL EXPENDITURES					15,050.00

3. PURCHASE COMPLETION DATE

The EQUIPMENT purchase shall be completed no later than September 30, 2016. The DEPARTMENT will make payment under this CONTRACT upon receipt of a written request by the GRANTEE as specified in Article III and XIII of EXHIBIT A attached hereto.

4. SPECIAL PROVISIONS

- (a) GRANTEE hereby certifies that the obligations created by this CONTRACT do not violate the provisions of Sections 1090 to 1096 of the Government Code.
- (b) This CONTRACT is not fully executed until signed by the DEPARTMENT, GRANTEE, and approved by the Department of General Services, if required. Grantee may not go out to bid until CONTRACT is fully executed and equipment specifications have been approved by the DEPARTMENT.
- (c) GRANTEE hereby certifies that during the performance of this CONTRACT, GRANTEE and any sub-grantees shall fully comply with State regulations regarding the implementation of Disabled Veteran business participation goals as set forth in ARTICLE XVI, Disabled Veteran Business Enterprise Participation Requirements, ARTICLE XVII, Recycling Certification and ARTICLE XVIII, CONTRACTORS CERTIFICATION CLAUSES.
- (d) GRANTEE shall continue with the responsibilities of this CONTRACT during any dispute.
- (e) Notices required between the DEPARTMENT and the GRANTEE shall be deemed to have been given when mailed to the respective addresses below, first-class postage fully prepaid thereon.

EXHIBIT A
STANDARD TERMS AND CONDITIONS FOR
BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANT AGREEMENT

ARTICLE I — DEFINITIONS

- A. **GRANT AGREEMENT** means the contract to which these standard terms and conditions are appended.
- B. **EQUIPMENT** means a DEPARTMENT approved electronics, power plant and other equipment purchased for use in boating safety and law enforcement activities.
- C. **PURCHASE COSTS** means those costs incurred by the GRANTEE in purchasing the EQUIPMENT; such PURCHASE COSTS shall not include any operation and maintenance costs, nor any costs incurred prior to the effective date of this CONTRACT, nor any indirect or overhead costs claimed by the GRANTEE.
- D. **GRANTEE FUNDS** mean any funds provided by the GRANTEE for the operation and maintenance of the EQUIPMENT.
- E. **GRANT** means a grant, using FEDERAL FUNDS, made by the DEPARTMENT to the GRANTEE to finance all or part of the PURCHASE COSTS.

ARTICLE II — TERM OF CONTRACT

- A. The term of this CONTRACT shall begin on the effective date of the GRANT AGREEMENT and shall continue for FIFTEEN [15] YEARS from such date unless terminated earlier in accordance with the terms and conditions of this CONTRACT.
- B. No amendment or variation of the terms of this CONTRACT shall be valid unless made in writing, signed by the DEPARTMENT, GRANTEE, AND approved as required. No oral understanding or CONTRACT not incorporated in the CONTRACT is binding on any of the parties.

ARTICLE III — DISBURSEMENT OF GRANT

- A. The DEPARTMENT shall have no obligation to disburse the GRANT unless and until the GRANTEE obtains the prior written approval of the DEPARTMENT of the type and cost of the EQUIPMENT and attendant equipment.
- B. The DEPARTMENT will reimburse the GRANTEE through the GRANT for the PURCHASE COSTS of the EQUIPMENT.
- C. The DEPARTMENT may make payment under this CONTRACT upon receipt of a written payment request by the GRANTEE, such request shall be substantiated by invoices or other such evidence of PURCHASE COSTS and a signed certification that the GRANTEE complied with procurement procedures as outlined in ARTICLE XIII.

ARTICLE IV — EQUIPMENT OWNERSHIP

The DEPARTMENT shall be the legal owner of the EQUIPMENT and the GRANTEE shall not assign, mortgage, hypothecate or transfer its interest in the EQUIPMENT without the prior written approval of the DEPARTMENT.

ARTICLE V — OPERATION AND MAINTENANCE OF EQUIPMENT

- A. The GRANTEE shall use the EQUIPMENT for the purposes of promoting boating safety and law enforcement and shall keep the EQUIPMENT available for search and rescue operations.
- B. The GRANTEE shall be responsible for the costs of operating and maintaining the EQUIPMENT; the DEPARTMENT shall not be liable for such costs.
- C. The GRANTEE shall maintain the EQUIPMENT in good repair.
- D. The GRANTEE, at its own expense, agrees to replace the EQUIPMENT if it is destroyed or rendered useless prior to the expiration of this GRANT.
- E. Representatives, agents or employees of the GRANTEE in the performance of this GRANT shall act in independent capacity and not as officers, employees or agents of the DEPARTMENT.
- F. The GRANTEE shall keep complete and accurate records of all expenditures pertaining to the purchase of additional equipment and the operation and maintenance of the EQUIPMENT; such records shall be available and open to the DEPARTMENT at all reasonable times for inspection and audit by any authorized representative of the DEPARTMENT.

ARTICLE VI — TERMINATION OF GRANT AGREEMENT

- A. Either DEPARTMENT or GRANTEE may unilaterally terminate this GRANT if a material breach of the GRANT is made by the other; such termination shall become effective NINETY [90] DAYS following the date of receipt by either the DEPARTMENT or the GRANTEE of a written notice of termination from the party initiating the termination.
- B. The GRANTEE may terminate this GRANT if the GRANTEE becomes financially or legally unable to comply with the terms and conditions of this GRANT AGREEMENT; such termination shall become effective NINETY [90] DAYS following receipt by the DEPARTMENT of a written notice of termination from the GRANTEE.
- C. The DEPARTMENT may terminate this GRANT immediately and be relieved of any payments should the legislative body of the GRANTEE fail to appropriate GRANTEE FUNDS or if the GRANTEE fails to perform the requirements of this Agreement at the time and in the manner herein provided; such termination to become effective upon receipt by the GRANTEE of a written termination notice from the DEPARTMENT.
- D. This GRANT shall terminate three years after the effective date specified on page 1 of the GRANT AGREEMENT if the GRANTEE has not received all of the GRANT prior to such date.

ARTICLE VII — REVERSION OF EQUIPMENT TO DEPARTMENT

If, for any reason whatsoever, this GRANT is terminated prior to the expiration of the term of the GRANT, then the GRANTEE shall deliver the EQUIPMENT to the DEPARTMENT and shall execute any document necessary to effect appropriate changes in pertinent public records; the reversion of registered title is hereby declared to be in addition to, and not in lieu of, any other remedies for breach of this GRANT which may be available to the DEPARTMENT.

ARTICLE VIII — LIABILITY

- A. The GRANTEE waives all claims and recourse against the DEPARTMENT, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this GRANT.
- B. Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by GRANTEE in the performance of this Agreement. GRANTEE warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable State contracting laws, codes, rules and regulations in the performance of this agreement.
- C. If the DEPARTMENT is named as a co-defendant, the GRANTEE shall notify the DEPARTMENT and represent it unless the DEPARTMENT elects to represent itself. If the DEPARTMENT undertakes its own defense, it shall bear its own litigation costs, expenses and attorney's fees.

ARTICLE IX — WAIVER OF RIGHTS

It is the intention of the parties hereto that from time to time either party may waive certain of its rights under this GRANT. Any waiver at this time by either party hereto of its rights with respect to a default or any other matter arising in connection with this GRANT shall not be deemed to be a waiver with respect to any other default or matter.

ARTICLE X — REMEDIES NOT EXCLUSIVE

The use by either the DEPARTMENT or GRANTEE of any remedy specified in this GRANT for the enforcement of this GRANT AGREEMENT is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

ARTICLE XI — OPINIONS AND DETERMINATIONS

Where the terms of GRANT provide for action to be based upon the opinion, judgment, approval, review, or determination of either the DEPARTMENT or GRANTEE, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE XII — ASSIGNMENT OR TRANSFER OF EQUIPMENT

No assignment or transfer of this GRANT or any part hereof, rights hereunder, or interest herein by GRANTEE shall be valid unless and until it is approved by the DEPARTMENT and made subject to such reasonable terms and conditions as the DEPARTMENT may impose.

ARTICLE XIII — PROCUREMENT PROCEDURES

- A. The GRANTEE may use its own procurement procedures which reflect applicable State and Local laws and regulations, provided that the procedures conform to applicable Federal law, the standards identified in EXHIBIT C, 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and the specifications prepared by the GRANTEE and approved by the DEPARTMENT. There shall be no changes, corrections, modifications

or exceptions to DEPARTMENT- approved specifications without advance approval by the DEPARTMENT.

- B. Procurement procedures for boats must be invitation for Bids. Please pay special attention to the specific procurement standards regarding advertising by your department, adequate purchase descriptions, sealed bids, and public openings.
- C. Procurement procedures used by the GRANTEE must conform to State law and regulations regarding Disabled Veteran Business Enterprise Participation Requirements, ARTICLE XVI, Recycling Certification, ARTICLE XVII, AND CONTRACTORS CERTIFICATION CLAUSES, ARTICLE XVIII. The GRANTEE is responsible, in its sole discretion, for the review of all bids for compliance.

D. **EQUIPMENT AND ELECTRONICS PROCEDURE PROCEDURES:**

Grantee must obtain at least three (3) bids or rate quotations from qualified sources for each item that has a unit cost of \$5,000 or more. The bids may be obtained over the phone, but must be verified with a fax or original copy from the vendor, and must include the make, model, size, name of vendor, date, and cost of item.

E. **AWARDING AGENCY REVIEW**

- (1) Grantees and sub-grantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or services specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or sub-grantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (2) Grantees and sub-grantees must on request make available for Awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
 - (A) A grantee's or sub-grantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
 - (B) The procurement is expected to be awarded without competition or only one bid or offer is received in response to a solicitation; or
 - (C) The proposed award is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - (D) A proposed GRANT modification changes the scope of a contract.
- (3) A grantee or sub-grantee will be exempt from the pre-award review in paragraph (D)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
 - (A) A grantee or sub-grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, a third-party contracts are awarded on a regular basis.
 - (B) A grantee or sub-grantee may self-certify its Procurement system. Such self-certification shall not Limit the warding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to reply on written assurances from the grantee or sub-grantee that it is complying with these standards. A grantee or sub-grantee will cite specific procedures, regulations, standards, etc., as being in

compliance with these requirements and have its system available for review.

ARTICLE XIV — SUBJECT TO AUDIT

GRANTEE agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the Performance of this Agreement. GRANTEE agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. GRANTEE agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, GRANTEE agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement (GC 8546.7, PCC 10115 et seq., and CCR Title 2, Section 1896).

ARTICLE XV — NON-DISCRIMINATION CLAUSE

- A. During the performance of this GRANT, GRANTEE and its sub-grantees shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. GRANTEES and sub-grantees shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. GRANTEES and sub-grantees shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285.0 et seq.).

The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), are set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations and are incorporated into this GRANT by reference and made a part hereof as if set forth in full. GRANTEE and sub-grantees shall give written notice of their obligations under this clause to labor organization with which they have a collective bargaining or other agreement.

- B. GRANTEE shall include the non-discrimination and compliance provisions of this clause in all sub-grants to perform work under this GRANT.

ARTICLE XVI — DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION REQUIREMENT

- A. State law requires that State contracts have participation goals of 3% for Disabled Veteran Business Enterprises (DVBEs). Local governmental agency contracts where the State retains a proprietary interest must comply with this requirement.
- B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all invitations for Bids and Requests for proposals.
- C. The GRANTEE is responsible for reviewing all bids for compliance with the DVBE participation requirement.

ARTICLE XVII — RECYCLING CERTIFICATION

- A. State law requires that state contracts shall have Recycling Certification in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract

Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

- B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all Invitations for Bids and Requests for Proposals. Suggested language and forms which may be used are attached to this exhibit.
- C. The GRANTEE is responsible for reviewing all bids for compliance with Recycling Certification requirement.

ARTICLE XVIII — CONTRACTOR CERTIFICATION CLAUSES

- A. The CONTRACTOR CERTIFICATION CLAUSES contained in document CCC307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
- B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all Invitations for Bids and Requests for Proposals. Suggested language and forms which may be used are attached to this exhibit.
- C. The GRANTEE is responsible for reviewing all bids for compliance with Recycling Certification requirement.

ARTICLE XIX — DISPOSITION OF PROCEEDS FROM SALE OF EQUIPMENT

If the GRANTEE has contributed money other than GRANT funds to cover the payment of PURCHASE COSTS, and in the event of a sale of the EQUIPMENT after the expiration or termination of this GRANT or the reversion of the EQUIPMENT to the DEPARTMENT, then the proceeds of the EQUIPMENT sale shall be distributed between the DEPARTMENT and the GRANTEE in proportion to their respective contributions in paying the PURCHASE COSTS, e.g.: if the PURCHASE COSTS totaled \$100,000 and the GRANT contribution amounts to \$60,000, then the DEPARTMENT would receive 60% of the EQUIPMENT sale proceeds and the GRANTEE would receive 40%.

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. **APPROVAL:**

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. **AMENDMENT:**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. **ASSIGNMENT:**

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. **AUDIT:**

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. **INDEMNIFICATION:**

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. **DISPUTES:**

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. **TERMINATION FOR CAUSE:**

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR:**

Contractor, and the agents and employees of Contractor, in the performance of this

Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES:

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. COMPENSATION:

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW:

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS:

The Contractor by signing this agreement hereby certifies that if these services or goods are

obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. . If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION:

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS:

If this GRANT AGREEMENT includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the GRANT AGREEMENT to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a. If for this GRANT AGREEMENT Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT C

[Code of Federal Regulations]

[Title 49, Volume 1, Parts 1 to 99]

From the U.S. Government Printing Office via GPO Access

TITLE 49—TRANSPORTATION

PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

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Authority: 49 U.S.C. 322(a).

Source: 53 FR 8086 and 8087, Mar. 11, 1988, unless otherwise noted. Editorial Note: For additional information, see related documents published at 49 FR 24958, June 18, 1984, 52 FR 20198, May 29, 1987, and 53 FR 8028, March 11, 1988.

A - General

Sec. 18.1 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and sub-awards to State, local and Indian tribal governments.

Sec. 18.2 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

Sec. 18.3 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for:

- (1) Goods and other tangible property received;
- (2) services performed by employees, contractors, sub grantees, subcontractors, and other payees; and
- (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of:

- (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and
- (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from "programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means:

- (1) with respect to a grant, the Federal agency, and
- (2) with respect to a subgrant, the party that awarded the subgrant.

Cash contributions means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals.

When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for "grant" and "subgrant" in this section and except where qualified by "Federal") a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Expenditure report means:

- (1) For non-construction grants, the SF-269 "Financial Status Report" (or other equivalent report);
- (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a

particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does

not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of "grant" in this part.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than "equipment" as defined in this part. Suspension means depending on the context, either:

- (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or
- (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. "Termination" does not include:

- (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period;
- (2) Withdrawal of the unobligated balance as of the expiration of a grant;
- (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or
- (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grant or subgrant mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Sec. 18.4 Applicability.

- (a) General. Subparts A through D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of Sec. 18.6, or:
 - (1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

- (2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, Section 583—the Secretary's discretionary grant program) and titles I-III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (Section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and part C of title V, Mental Health Service for the Homeless Block Grant).
- (3) Entitlement grants to carry out the following programs of the Social Security Act.
 - (i) Aid to Needy Families with Dependent Children (title IV-A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)(19)(G); HHS grants for WIN are subject to this part);
 - (ii) Child Support Enforcement and Establishment of Paternity (title IV-D of the Act);
 - (iii) Foster Care and Adoption Assistance (title IV-E of the Act);
 - (iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI-AABD of the Act); and
 - (v) Medical Assistance (Medicaid) (title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).
- (4) Entitlement grants under the following programs of The National School Lunch Act:
 - (i) School Lunch (section 4 of the Act),
 - (ii) Commodity Assistance (section 6 of the Act),
 - (iii) Special Meal Assistance (section 11 of the Act),
 - (iv) Summer Food Service for Children (section 13 of the Act), and
 - (v) Child Care Food Program (section 17 of the Act).
- (5) Entitlement grants under the following programs of The Child Nutrition Act of 1966:
 - (i) Special Milk (section 3 of the Act), and
 - (ii) School Breakfast (section 4 of the Act).
- (6) Entitlement grants for State Administrative expenses under The Food Stamp Act of 1977 (section 16 of the Act).
- (7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;
- (8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L.96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits;
- (9) Grants to local education agencies under 20 U.S.C. 236 through 241-1(a),

and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children); and

- (10) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).
- (b) Entitlement programs. Entitlement programs enumerated above in Sec. 18.4(a) (3) through (8) are subject to subpart E.

Sec. 18.5 Effect on other issuance's.

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in Sec. 18.6.

Sec. 18.6 Additions and exceptions.

- (a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the Federal Register.
- (b) Exceptions for classes of grants or grantees may be authorized only by OMB.
 - (1) All Departmental requests for exceptions shall be processed through the Assistant Secretary of Administration.
 - (2) [Reserved]
- (c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.
 - (1) All case-by-case exceptions may be authorized by the affected operating administrations or departmental offices, with the concurrence of the Assistant Secretary for Administration.
 - (2) [Reserved]

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 60 FR 19646, Apr. 19, 1995] Subpart B - Pre-Award Requirements

Sec. 18.10 Forms for applying for grants.

- (a) Scope
 - (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.
 - (2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.
 - (3) Forms and procedures for Federal Highway Administration (FHWA) projects are contained in 23 CFR part 630, subpart B, 23 CFR part 420, subpart A, and 49 CFR part 450.
- (b) Authorized forms and instructions for governmental organizations.
 - (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of

OMB under the Paperwork Reduction Act of 1980.

- (2) Applicants are not required to submit more than the original and two copies of pre-applications or applications.
- (3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 face sheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.
- (4) When a grantee applies for additional funding (such as a continuation supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]Sec. 18.11 State plans.

- (a) **Scope.** The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, "Intergovernmental Review of Federal Programs," States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive order.
- (b) **Requirements.** A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.
- (c) **Assurances.** In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:
 - (1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,
 - (2) Repeat the assurance language in the statutes or regulations, or
 - (3) Develop its own language to the extent permitted by law.
- (d) **Amendments.** A State will amend a plan whenever necessary to reflect:
 - (1) New or revised Federal statutes or regulations or (2) a material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

Sec. 18.12 Special grant or subgrant conditions for "high-risk" grantees.

- (a) A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee:
 - (1) Has a history of unsatisfactory performance, or
 - (2) Is not financially stable, or

- (3)) Has a management system which does not meet the management standards set forth in this part, or
 - (4) Has not conformed to terms and conditions of previous awards;
 - (5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.
- (b) Special conditions or restrictions may include:
- (1) Payment on a reimbursement basis;
 - (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
 - (3) Requiring additional, more detailed financial reports;
 - (4) Additional project monitoring;
 - (5) Requiring the grantee or subgrantee to obtain technical or management assistance; or
 - (6) Establishing additional prior approvals.
- (c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:
- (1) The nature of the special conditions/restrictions;
 - (2) The reason(s) for imposing them;
 - (3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions; and
 - (4) The method of requesting reconsideration of the conditions/ restrictions imposed.

Subpart C—Post-Award Requirements Financial Administration

Sec. 18.20 Standards for financial management systems.

- (a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
- (b) The financial management systems of other grantees and subgrantees must meet the following standards:
- (1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
 - (2) **Accounting records.** Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or

expenditures, and income.

- (3) **Internal control.** Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
 - (4) **Budget control.** Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
 - (5) **Allowable cost.** Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allow ability, of costs.
 - (6) **Source documentation.** Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.
 - (7) **Cash management.** Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.
- (c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.
- (d) Certain Urban Mass Transportation Administration (UMTA) grantees shall comply with the requirements of section 15 of the Urban Mass Transportation (UMT) Act of 1964, as amended, as implemented by 49 CFR part 630, regarding a uniform system of accounts and records and a uniform reporting system for certain grantees.[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.21 Payment.

- (a) **Scope.** This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will

make payments to subgrantees and contractors.

- (b) **Basic standard.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.
- (c) **Advances.** Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.
- (d) **Reimbursement.** Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.
- (e) Working capital advances. If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis.

Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the sub subgrantee's actual cash disbursements.
- (f) Effect of program income, refunds, and audit recoveries on payment.
 - (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
 - (2) Except as provided in paragraph (f) (1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.
- (g) Withholding payments
 - (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless;
 - (i) The grantee or subgrantee has failed to comply with grant award conditions or

(ii) The grantee or subgrantee is indebted to the United States.

- (2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with Sec. 18.43(c).
- (3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

- (h) Cash depositories.
 - (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.
 - (2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.
- (i) Interest earned on advances. Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.
- (j) 23 U.S.C. 121 limits payments to States for highway construction projects to the Federal share of the costs of construction incurred to date, plus the Federal share of the value of stockpiled materials.
- (k) Section 404 of the Surface Transportation Assistance Act of 1982 directs the Secretary to reimburse States for the Federal share of costs incurred. [53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.22 Allowable costs.

- (a) **Limitation on use of funds.** Grant funds may be used only for:
 - (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
 - (2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.
- (b) Applicable cost principles. For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.
- (c) The overhead cost principles of OMB Circular A-87 shall not apply to State

highway agencies for FHWA funded grants.

- (d) Sections 3(1) and 9(p) of the UMT Act of 1964, as amended, authorize the Secretary to include in the net project cost eligible for Federal assistance, the amount of interest earned and payable on bonds issued by the State or local public body to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion thereof. Limitations are established in sections 3 and 9 of the UMT Act of 1964, as amended.
- (e) Section 9 of the UMT Act of 1964, as amended, authorizes grants to finance the leasing of facilities and equipment for use in mass transportation services provided leasing is more cost effective than acquisition or construction.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.23 Period of availability of funds.

- (a) **General.** Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.
- (b) Liquidation of obligations. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

Sec. 18.24 Matching or cost sharing.

- (a) **Basic rule:** Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
 - (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.
 - (2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.
- (b) **Qualifications and exceptions**
 - (1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.
 - (2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.
 - (3) Cost or contributions counted towards other Federal costs-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another

Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

- (4)) Costs financed by program income. Costs financed by program income, as defined in Sec. 18.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in Sec. 18.25(g).)
- (5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.
- (6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.
- (7) Special standards for third party in-kind contributions.
 - (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.
 - (ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.
 - (iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:
 - (A)) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or
 - (B) A cost savings to the grantee or subgrantee.
 - (iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.
- (8) 23 U.S.C. 121(a) permits reimbursement for actual construction cost incurred by States for highway construction projects. Except for private donations of right-of-way, contributions and donations shall not be considered State costs, and shall not be allowable for matching

purposes for highway construction contracts. 23 U.S.C. 323 permits private donations of right-of-way to be used for a State's matching share, and establishes procedures for determining the fair market value of such donated right-of-way.

- (9) Section 4(a) of the UMT Act of 1964, as amended, provides that the Federal grant for any project to be assisted under section 3 of the UMT Act of 1964, as amended, shall be in an amount equal to 75 percent of the net project costs. Net project cost is defined as that portion of the cost of the project which cannot be reasonably financed from revenues.
- (10) Section 18(e) of the UMT Act of 1964, as amended, limits the Federal share to 80 percent of the net cost of construction, as determined by the Secretary of Transportation. The Federal share for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 percent of the net cost of such operating expense projects.

(c) **Valuation of donated services.**

- (1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation. Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.
- (3) Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) limits in-kind service contributions under the local Rail Service Assistance Program to "the cash equivalent of State salaries for State public employees working in the State rail assistance program, but not including overhead and general administrative costs."

(d) Valuation of third party donated supplies and loaned equipment or space.(1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2)) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) Valuation of third party donated equipment, buildings, and land.

If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

- (1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,
- (2) Other awards. If assisting in the acquisition of property is not the

purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

- (i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.
 - (ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in Sec. 18.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.
- (f) Valuation of grantee or subgrantee donated real property for construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.
- (g) Appraisal of real property. In some cases under paragraphs (d),(e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

**[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]
Sec. 18.25 Program income.**

- (a) **General.** Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.
- (b) **Definition of program income.** Program income means gross income

received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

- (c) **Cost of generating program income.** If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.
- (d) **Governmental revenues.** Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.
- (e) **Royalties.** Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See Sec. 18.34.)
- (f) **Property.** Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of Secs. 18.31 and 18.32.
- (g) **Use of program income.** Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.
 - (1) **Deduction.** Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.
 - (2) **Addition.** When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee.

The program income shall be used for the purposes and under the conditions of the grant agreement.
 - (3) **Cost sharing or matching.** When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.
 - (4)) Section 3(a)(1)(D) of the UMT Act of 1964, as amended, provides that the Secretary shall establish requirements for the use of income derived from appreciated land values for certain UMTA grants. Specific

requirements shall be contained in grant agreements.

- (5) UMTA grantees may retain program income for allowable capital or operating expenses.
 - (6) For grants awarded under section 9 of the UMT Act of 1964, as amended, any revenues received from the sale of advertising and concessions in excess of fiscal year 1985 levels shall be excluded from program income.
 - (7) 23 U.S.C. 156 requires that States shall charge fair market value for the sale, lease, or use of right-of-way airspace for non-transportation purposes and that such income shall be used for projects eligible under 23 U.S.C.
- (h)) Income after the award period. There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.26 Non-Federal audits.

- (a) **Basic rule.** Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.
- (b) **Subgrantees.** State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:
 - (1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;
 - (2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;
 - (3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal

laws and regulations;

- (4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and
 - (5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.
- (c) Auditor selection. In arranging for audit services, Sec. 18.36 shall be followed.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 61 FR 21387, May 10, 1996; 62 FR 45939, 45947, Aug. 29, 1997]

Changes, Property, and Sub-awards

Sec. 18.30 Changes.

- (a) **General.** Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.
- (b) **Relation to cost principles.** The applicable cost principles (see Sec. 18.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.
- (c) **Budget changes.**
 - (1) Nonconstruction projects. Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:
 - (i) Any revision which would result in the need for additional funding.
 - (ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
 - (iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).
 - (2) Construction projects. Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.
 - (3) Combined construction and non-construction projects. When a grant or subgrant provides funding for both construction and non-construction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from non-construction to construction or vice versa.
- (d) **Programmatic changes.** Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:
 - (1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

- (2) Need to extend the period of availability of funds.
 - (3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
 - (4) Under non-construction projects, contracting out, sub-granting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of Sec. 18.36 but does not apply to the procurement of equipment, supplies, and general support services.
- (e) **Additional prior approval requirements.** The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.
- (f) **Requesting prior approval.**
- (1) A request for prior approval of any budget revision will be in the same budget form the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.
 - (2) A request for a prior approval under the applicable Federal cost principles (see Sec. 18.22) may be made by letter.
 - (3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

Sec. 18.31 Real property.

- (a) **Title.** Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.
- (b) **Use.** Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.
- (c) **Disposition.** When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:
 - (1) **Retention of title.** Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in

those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

- (2) Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or sub-grantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
 - (3) Transfer of title. Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.
- (d)) If the conditions in 23 U.S.C. 103(e) (5), (6), or (7), as appropriate, are met and approval is given by the Secretary, States shall not be required to repay the Highway Trust Fund for the cost of right-of-way and other items when certain segments of the Interstate System are withdrawn.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.32 Equipment.

- (a) **Title.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.
- (b) **States.** A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.
- (c) **Use.**
 - (1)) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
 - (2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.
 - (3) Notwithstanding the encouragement in Sec. 18.25(a) to earn program

income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute. (4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) **Management requirements.** Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
- (4) Adequate maintenance procedures must be developed to keep the property in good condition.
- (5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) **Disposition.** When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

- (1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
- (2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.
- (3)) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) **Federal equipment.** In the event a grantee or subgrantee is provided federally-owned equipment:

- (1) Title will remain vested in the Federal Government.
- (2) Grantees or subgrantees will manage the equipment in accordance with

Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) **Right to transfer title.** The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third party named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 18.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

Sec. 18.33 Supplies.

(a) **Title.** Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) **Disposition.** If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

Sec. 18.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

Sec. 18.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier 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, "Debarment and Suspension."

Sec. 18.36 Procurement.

(a) **States.** When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.

The State will ensure that every purchase order or other contract includes

any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b)

Procurement standards.

- (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- (2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - (i) The employee, officer or agent,
 - (ii) Any member of his immediate family,
 - (iii) His or her partner, or
 - (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.
- (4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.
- (6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property

whenever such use is feasible and reduces project costs.

- (7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- (9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (10) Grantees and subgrantees will use time and material type contracts only:
 - (i) After a determination that no other contract is suitable, and
 - (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.
- (11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.
- (12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:
 - (i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
 - (ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) **Competition.**

- (1) All procurement transactions will be conducted in a manner providing full

and open competition consistent with the standards of Sec. 18.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
 - (ii) Requiring unnecessary experience and excessive bonding,
 - (iii) Noncompetitive pricing practices between firms or between affiliated companies,
 - (iv) Noncompetitive awards to consultants that are on retainer contracts,
 - (v) Organizational conflicts of interest,
 - (vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and
 - (vii) Any arbitrary action in the procurement process.
- (2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition.

The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

- (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (4) Grantees and subgrantees will ensure that all pre-qualified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation

period.

(d) **Methods of procurement to be followed**

- (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
- (2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 18.36(d)(2)(i) apply.
 - (i) In order for sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;
 - (B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (ii) If sealed bids are used, the following requirements apply:
 - (A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (E) Any or all bids may be rejected if there is a sound documented reason.
- (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - (ii) Proposals will be solicited from an adequate number of qualified sources;
 - (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
 - (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
 - (A) The item is available only from a single source;
 - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (C) The awarding agency authorizes noncompetitive proposals; or
 - (D) After solicitation of a number of sources, competition is determined inadequate.
 - (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
 - (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.
- (e) **Contracting with small and minority firms, women's business enterprise and labor surplus area firms.**
- (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
 - (2) Affirmative steps shall include:
 - (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) **Contract cost and price.**

- (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
- (2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 18.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
- (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) **Awarding agency review.**

- (1) Grantees and subgrantees must make available, upon request of the

awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

- (2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
 - (i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
 - (ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
 - (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
 - (iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
- (3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
 - (i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
 - (ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.
- (h) **Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(h) **Bonding requirements**

- (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- (i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the office of Federal Procurement Policy.
- (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
- (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
- (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
- (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

- (7) Notice of awarding agency requirements and regulations pertaining to reporting.
 - (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
 - (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
 - (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
 - (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
 - (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
 - (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- (j) 23 U.S.C. 112(a) directs the Secretary to require recipients of highway construction grants to use bidding methods that are "effective in securing competition."
Detailed construction contracting procedures are contained in 23 CFR part 635, subpart A.
 - (k) Section 3(a)(2)(C) of the UMT Act of 1964, as amended, prohibits the use of grant or loan funds to support procurements utilizing exclusionary or discriminatory specifications.
 - (l) 46 U.S.C. 1241(b)(1) and 46 CFR part 381 impose cargo preference requirements on the shipment of foreign made goods.
 - (m) Section 165 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1601, section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR parts 660 and 661 impose Buy America provisions on the procurement of foreign products and materials.
 - (n) Section 105(f) of the Surface Transportation Assistance Act of 1982, section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR part 23 impose requirements for the participation of disadvantaged business enterprises.
 - (o) Section 308 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1068(b)(2), authorizes the use of competitive negotiation for the purchase of rolling stock as appropriate.
 - (p) 23 U.S.C. 112(b) provides for an exemption to competitive bidding

- requirements for highway construction contracts in emergency situations.
- (q) 23 U.S.C. 112 requires concurrence by the Secretary before highway construction contracts can be awarded, except for projects authorized under the provisions of 23 U.S.C. 171.
 - (r) 23 U.S.C. 112(e) requires standardized contract clauses concerning site conditions, suspension or work, and material changes in the scope of the work for highway construction contracts.
 - (s) 23 U.S.C. 140(b) authorizes the preferential employment of Indians on Indian Reservation road projects and contracts.
 - (t) FHWA, UMTA, and Federal Aviation Administration (FAA) grantees and subgrantees shall extend the use of qualifications-based (e.g., architectural and engineering services) contract selection procedures to certain other related areas and shall award such contracts in the same manner as Federal contracts for architectural and engineering services are negotiated under Title IX of the Federal Property and Administrative Services Act of 1949, or equivalent State (or airport sponsor for FAA) qualifications-based requirements. For FHWA and UMTA programs, this provision applies except to the extent that a State adopts or has adopted by statute a formal procedure for the procurement of such services.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988; 60 FR 19639, 19647, Apr. 19, 1995]

Sec. 18.37 Subgrants.

- (a) **States.** States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:
 - (1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;
 - (2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;
 - (3) Ensure that a provision for compliance with Sec. 18.42 is placed in every cost reimbursement subgrant; and
 - (4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.
- (b) **All other grantees.** All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:
 - (1) Ensure that every subgrant includes a provision for compliance with this part;
 - (2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and
 - (3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.
- (c) **Exceptions.** By their own terms, certain provisions of this part do not apply to

the award and administration of subgrants:

- (1) Section 18.10;
- (2) Section 18.11;
- (3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in Sec. 18.21; and
- (4) Section 18.50.

Reports, Records, Retention, and Enforcement

Sec. 18.40 Monitoring and reporting program performance.

- (a) **Monitoring by grantees.** Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.
- (b) **Nonconstruction performance reports.** The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.
 - (1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.
 - (2) Performance reports will contain, for each grant, brief information on the following:
 - (i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.
 - (ii) The reasons for slippage if established objectives were not met.
 - (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
 - (3) Grantees will not be required to submit more than the original and two copies of performance reports.
 - (4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.
- (c) **Construction performance reports.** For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and

subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(1) Section 12(h) of the UMT Act of 1964, as amended, requires pre-award testing of new buses models.

(2) [Reserved]

(d) **Significant developments.** Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) **Federal agencies may make site visits as warranted by program needs.**

(f) **Waivers, extensions.**

(1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.41 Financial Reporting.

(a) **General.**

(1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decision making purposes.

- (4) Grantees will not be required to submit more than the original and two copies of forms required under this part.
- (5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.
- (6) Federal agencies may waive any report required by this section if not needed.
- (7)) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) **Financial Status Report.**

- (1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with Sec. 18.41(e)(2)(iii).
- (2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.
- (3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.
- (4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) **Federal Cash Transactions Report**

- (1) Form.
 - (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.
 - (ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.
- (2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

- (3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.
- (4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) **Request for advance or reimbursement.**

- (1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)
- (2) Reimbursements. Requests for reimbursement under non-construction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)
- (3) The frequency for submitting payment requests is treated in Sec.18.41 (b)(3).

(e) **Outlay report and request for reimbursement for construction programs.**

- (1) Grants that support construction activities paid by reimbursement method.
 - (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in Sec. 18.41(d), instead of this form.
 - (ii) The frequency for submitting reimbursement requests is treated in Sec. 18.41(b)(3).

(e) **Outlay report and request for reimbursement for construction programs.**

- (2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.
 - (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by Sec. 18.41(b) (3) and (4).
 - (ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in Sec. 18.41(d).
 - (iii) The Federal agency may substitute the Financial Status Report

specified in Sec. 18.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

- (3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by Sec. 18.41(b)(2).

- (f) **Notwithstanding the provisions of paragraphs (a)(1) of this section, recipients of FHWA and National Highway Traffic Safety Administration (NHTSA) grants shall use FHWA, NHTSA or State financial reports.**

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.42 Retention and access requirements for records.

(a) **Applicability.**

- (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:
 - (i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or
 - (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.
- (2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 18.36(i)(10).

(b) **Length of retention period.**

- (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.
- (2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
- (3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee

(c) **Starting date of retention period¹**

- (1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have

been due.

- (2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.
 - (3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.
 - (4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
 - (i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - (ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
- (d) **Substitution of microfilm.** Copies made by microfilming, photocopying, or similar methods may be substituted for original the records.
- (e) **Access to records**
- (1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.
 - (2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.
- (f) **Restrictions on public access.** The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

Sec. 18.43 Enforcement

- (a) **Remedies for noncompliance.** If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following

actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
 - (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
 - (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
 - (4) Withhold further awards for the program, or
 - (5) Take other remedies that may be legally available.
- (b) **Hearings, appeals.** In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.
- (c) **Effects of suspension and termination.** Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are non-cancellable, and,
 - (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (d) **Relationship to debarment and suspension.** The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see Sec. 18.35).

Sec. 18.44 Termination for convenience.

Except as provided in Sec. 18.43 awards may be terminated in whole or in part only as follows:

- (a) **General.** The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.
- (b) **Reports.** Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:
 - (1) Final performance or progress report.

- (2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).
 - (3) Final request for payment (SF-270) (if applicable).
 - (4) Invention disclosure (if applicable).
 - (5) Federally-owned property report: In accordance with Sec. 18.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.
- (c) **Cost adjustment.** The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.
- (d) **Cash adjustments.**
- (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.
 - (2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

Subpart D--After-the-Grant Requirements

Sec. 18.51 Later disallowances and adjustments.

The closeout of a grant does not affect:

- (a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;
- (b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
- (c) Records retention as required in Sec. 18.42;
- (d) Property management requirements in Secs. 18.31 and 18.32; and Audit requirements in Sec. 18.26.

Sec. 18.52 Collection of amounts due.

- (a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:
 - (1) Making an administrative offset against other requests for reimbursements,
 - (2) Withholding advance payments otherwise due to the grantee, or
 - (3) Other action permitted by law.
- (b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlements [Reserved]

EXHIBIT D

Appendix A to Part 96—Office of Management and Budget

Circular No. A-128—Uniform Audit Requirements for State and Local Governments

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

CIRCULAR NO. A-128

April 12, 1985

To the Heads of Executive Departments and Establishments.

Subject: Audits of State and Local Governments.

1. Purpose.

This Circular is issued pursuant to the Single Audit Act of 1984, Pub. L. 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

2. Super-session.

The Circular supersedes Attachment P, "Audit Requirements," of Circular A-102, "Uniform requirements for grants to State and local governments."

3. Background.

The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive \$100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. It specifies that the Director shall designate "cognizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.

4. Policy. The Single Audit Act requires the following:

4. Policy.

The Single Audit Act requires the following:

- a. State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.
- b. State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.
- c. State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.
- d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A-102, "Uniform requirements for grants to State or local governments."

5. Definitions.

For the purposes of this Circular the following definitions from the Single Audit Act apply:

- a. Cognizant agency means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.
- b. Federal financial assistance means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.
It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.
- c. Federal agency has the same meaning as the term agency in section 551(1) of title 5, U.S.C.
- d. Generally accepted accounting principles has the meaning specified in the generally accepted government auditing standards.
- e. Generally accepted government auditing standards means the Standards For Audit of Government Organizations, Programs, Activities, and Functions, developed by the Controller General, dated February 27, 1981.
- f. Independent auditor means:
 - (1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or
 - (2) A public accountant who meets such independence standards.
- g. Internal controls means the plan of organization and methods and procedures adopted by management to ensure that:
 - (1) Resource use is consistent with laws, regulations, and policies;
 - (2) Resources are safeguarded against waste, loss, and misuse; and
 - (3) Reliable data is obtained, maintained, and fairly disclosed in reports.
- h. Indian tribe means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- i. Local government means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.
- j. Major Federal Assistance Program, as defined by Pub. L. 98-502, is described in the Attachment to this Circular.
- k. Public accountants means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.
- l. State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has governmental functions and any Indian tribe.
- m. Sub-recipient means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a

program. A sub-recipient may also be a direct recipient of Federal financial assistance.

6. Scope of Audit.

The Single Audit Act provides that:

- a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.
- b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives \$25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

- c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular.

However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

- d. The auditor shall determine whether:
 - (1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;
 - (2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and
 - (3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. Frequency of Audit.

Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

8. Internal Control and Compliance Reviews.

The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

- a. Internal control review. In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:
 - (1) Test whether these internal control systems are functioning in accordance with prescribed procedures.
 - (2) Examine the recipient's system for monitoring sub-recipients and obtaining

and acting on sub-recipient audit reports.

- b. Compliance review. The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.
- (1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.
 - (2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through sub-recipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.
 - (a) In making the test of transactions, the auditor shall determine whether:
 - The amounts reported as expenditures were for allowable services, and
 - The records show that those who received services or benefits were eligible to receive them.
 - (b) In addition to transaction testing, the auditor shall determine whether:
 - Matching requirements, levels of effort and earmarking limitations were met,
 - Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and
 - Amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of Circular A-102, "Uniform requirements for grants to State and local governments."
 - (c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the Compliance Supplement for Single Audits of State and Local Governments, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.
 - (2) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

9. Sub-recipients.

State or local governments that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a sub-recipient shall:

- a. Determine whether State or local sub-recipients have met the audit requirements of this Circular and whether sub-recipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;
- b. Determine whether the sub-recipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the sub-recipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the sub-recipient has not yet had such an audit;
- c. Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;
- d. Consider whether sub-recipient audits necessitate adjustment of the recipient's own records; and
- e. Require each sub-recipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

10. Relation to Other Audit Requirements.

The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

- a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.
- b. The provisions of this Circular do not authorize any State or local government or sub-recipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.
- c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. Cognizant Agency Responsibilities.

The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

- a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds

whether directly or indirectly.

- b. A cognizant agency shall have the following responsibilities:
- (1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.
 - (2) Provide technical advice and liaison to State and local governments and independent auditors.
 - (3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.
 - (4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.
 - (5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.
 - (6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits upon such audits.
 - (7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. Illegal Acts or Irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 13(a)(3) below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. Audit Reports.

Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

- a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:
- (1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the Catalog of Federal Domestic Assistance. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."
 - (2) The auditor's report on the study and evaluation of internal control systems

must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

- A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;
 - Negative assurance on those items not tested;
 - A summary of all instances of noncompliance; and
 - An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.
- b. The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.
- c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.
- d. In addition to the audit report, the recipient shall provide including a plan for corrective action taken or planned and comments on the status of corrective action taken. IF prior corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.
- e. The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.
- f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Sub-recipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.
- g. Recipients of more than \$100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.
- h. Recipients shall keep audit reports on file for three years from their issuance.

14. Audit Resolution.

As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency.

Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. Audit work papers and Reports.

Work papers and reports shall be retained for a -minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit work papers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

16. Audit Costs.

The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

- a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, "Cost principles for State and local governments."
- b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost:

17. Sanctions.

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

- Withholding a percentage of assistance payments until the audit is completed satisfactorily,
- Withholding or disallowing overhead costs, and
- Suspending the Federal assistance agreement until the audit is made.

18. Auditor Selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment 0 of Circular A-102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. Small and Minority Audit Firms.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

- a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.
- b. Make information on forthcoming opportunities available and arrange time frames for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.
- c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.
- d. Encourage contracting with small audit firms or audit firms owned and controlled by

socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

- e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.
- f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

20. Reporting.

Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

21. Regulations.

Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. Effective Date.

This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A-102 shall continue to be observed.

23. Inquiries.

Attachment P to Circular A-102 shall continue to be observed.

23. inquiries. All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395-3993.

24. Sunset Review Date.

This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman, Director.

Attachment - Circular A-128

Definition of Major Program as Provided in Pub. L. 98-502

Major Federal Assistance Program, for State and local governments having Federal assistance expenditures between \$100,000 and \$100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of \$300,000, or 3 percent of such total expenditures. Where total expenditures of Federal assistance exceed \$100,000,000, the following criteria apply:

EXHIBIT E

SUGGESTED LANGUAGE FOR RECYLING CERTIFICATION

State law requires that state contracts shall have Recycling Certification in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

RECYCLED CONTENT CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Name and Title of Person Signing INGRID BRAUN, SHERIFF	Date Executed 9.22.15
Authorized Signature 	Executed in the County of Mono
Title SHERIFF	Telephone Number 760 932 7549
Legal Business Name Mono County Sheriff's Department	Federal ID Number 95-6005661

The Contractor hereby certifies under penalty of perjury, that percent of the materials, goods, supplies offered, or products used in the performance of this contract meets the or exceeds the minimum percentage of recycled material as defined in Sections 12161 and 12200 of the Public Contract Code. The Contractor may certify that the product contains zero recycled content.

EXHIBIT E (Cont.)

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
Mono County Sheriff's Department		95-6005661
By (Authorized Signature) 		
Printed Name and Title of Person Signing INGRID BRAUN		
Date Executed 9.22.15	Executed in the County of Mono	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE:

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS:

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS:

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST:

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION:

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT:

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE:

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION:

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION:

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all contractors that are not another state agency or other governmental entity.

Sample Bid/Proposal Attachment regarding the Darfur Contracting Act of 2008

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, et seq.; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. (See # 1 on the sample Attachment).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on the sample Attachment).

The following sample Attachment may be included in an IFB or RFP to satisfy the Act's certification requirements of bidders and proposers.

Exhibit F

DARFUR CONTRACTING ACT

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

1. _____ We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

OR

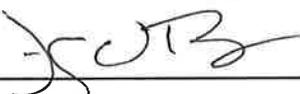
2. _____ We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed)		Federal ID Number	
Mono County Sheriff's Department		95-6005661	
By (Authorized Signature) 			
Printed Name and Title of Person Signing			
INGRID BRAUN, SHERIFF			
Date Executed		Executed in the County of	
9-22-15		Mono	

YOUR BID OR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR BID OR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH #1 OR #2 INITIALED OR PARAGRAPH #3 INITIALED AND CERTIFIED



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

Departments: Board of Supervisors, CAO, County Counsel

TIME REQUIRED	15 minutes (5 minute presentation; 10 minute discussion)	PERSONS APPEARING BEFORE THE BOARD	Lynda Salcido, Marshall Rudolph
SUBJECT	Response to Grand Jury Report		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Response by Board of Supervisors to the 2014-15 Mono County Grand Jury's final report.

RECOMMENDED ACTION:

Consider proposed, draft letter responding to the grand jury report. Approve and authorize the Board Chair to sign the Board's response letter, with such revisions to the draft letter as the Board may deem appropriate.

FISCAL IMPACT:

None.

CONTACT NAME: Marshall Rudolph

PHONE/EMAIL: (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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[Proposed Response Letter](#)

[proposed letter attachment A](#)

History

Time	Who	Approval
10/8/2015 10:43 AM	County Administrative Office	Yes
10/8/2015 8:21 AM	County Counsel	Yes
10/8/2015 10:55 AM	Finance	Yes

County Counsel
Marshall Rudolph

Assistant County Counsel
Stacey Simon

Deputy County Counsels
John-Carl Vallejo
Christian Milovich

**OFFICE OF THE
COUNTY COUNSEL**

Mono County
South County Offices
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

Telephone
760-924-1700
Facsimile
760-924-1701

Legal Assistant
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: October 13, 2015

RE: Response to 2014-15 Grand Jury Report

Recommendation:

Consider grand jury report and proposed response. Approve and authorize the Board chair to sign said response, with such revisions if any as the Board may desire. Provide any desired direction to staff.

Fiscal/Mandates Impact:

None.

Discussion:

The 2014-15 grand jury's final report was published on or about August 7, 2015. A copy of the report is enclosed. Responses to the report are governed by Penal Code sections 933(c) and 933.05, copies of which are enclosed for reference with pertinent language highlighted.

As those sections explain, the Board has 90 days to comment to the presiding judge of the superior court regarding "the findings and recommendations pertaining to matters under the control of the governing body;" and elected county officers and agency heads (i.e., the district attorney, sheriff, and assessor) have 60 days to comment on "the findings and recommendations pertaining to matters under the control of that county officer or agency head." (Penal Code section 933(c).) However, if the finding or recommendation addresses budgetary or personnel matters of an elected county department head, both the "department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors

shall address only those budgetary or personnel matters over which it has some decisionmaking authority. . . ." (Penal Code section 933.05(c).)

In the 2014-15 final report, there three portions pertaining County operations: animal control (Case #03), the Assessor's Office (Case #05), and the Jail/Probation tour. The Sheriff and the Assessor have already responded to the portions pertaining to their departments, with an informational copy to the Board as the law requires. A copy of their responses is enclosed. As in past years, the CAO (Lynda Salcido) and I have worked together on a draft letter from the Board with proposed responses to the portions of the report directed to the Board for response.

If you have any questions regarding this matter, please feel free to call me or the Interim CAO, Lynda Salcido.

Encl.

**STATE LAW REGARDING RESPONSE TO GRAND JURY REPORT
(PENAL CODE SECTIONS 933 and 933.05)**

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05. (a) For purposes of subdivision (b) of Section **933**, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section **933**, as to each

grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

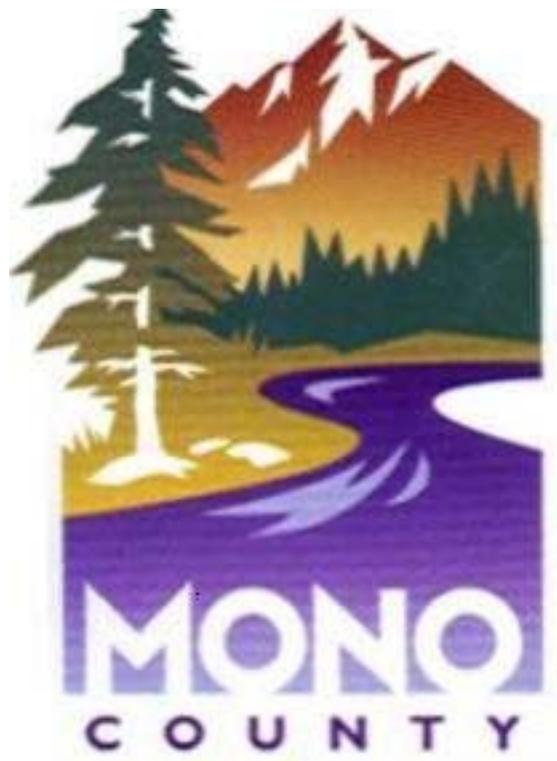
(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report

MONO COUNTY GRAND JURY



Final Report
2014-2015

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Don Sage & Alyse Caton

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

IN RE:

2014-2015 Grand Jury

GENERAL ORDER

I certify that the 2014-2015 Mono County Grand Jury Final Report complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 21 day of July ~~2014~~ ²⁰¹⁵


STAN BEER
Presiding Judge of the Superior Court



GRAND JURY OF MONO COUNTY

P.O. Box 3994

Mammoth Lakes, CA 93546

June 26, 2015

The Honorable Judge Stan Eller
Mono County Superior Court
P.O. Box 1037
Mammoth Lakes, CA 93546

Please find attached the final 2014/2015 Mono County Grand Jury Report.

The jury conducted several investigations that were substantially more convoluted and involved than they initially appeared. If not for the dedication and professionalism of my counterparts, these investigations would not have been completed in a timely and thorough manner. A tremendous amount of time and energy went into these investigations and I want to thank all members of the jury for their dedication to this important community service.

I especially want to thank Karen Johnston who not only served as vice foreperson and secretary of the jury but also provided invaluable insight and knowledge into the functioning of local government.

I would also like to acknowledge the support of Hector Gonzalez, Executive officer of the court, Marshall Rudolph, County Council, Tim Kendall, District Attorney and Alyse Caton, Executive Assistant. Without their assistance and prompt availability whenever we called, our job would have been much more difficult if not impossible.

All investigations, whether received from the public, initiated by the jury or mandated by state law were conducted in a thorough and conscientious manner and the conclusions and recommendations were well thought out. I believe that the government agencies involved in those investigations should take advantage of the recommendations made by the jury.

Finally, I would encourage the court to continue the recently- started outreach program to recruit grand jurors and suggest that the recruiting efforts start in February or March of each year.

It has been my privilege and honor to serve on this jury. Thank

you,

Jonathan D. Boyer

Foreman, Mono County Grand Jury 2014/15

THE GRAND JURY SYSTEM

Shrouded in secrecy, the functions of a Grand Jury are not widely known. The following summary describes what a Grand Jury is and does:

The Grand Jury system dates back to 12th century England during the reign of Henry II. Twelve “good and lawful men” were assembled in each village to investigate anyone suspected of crimes. The jurors passed judgment based on what they themselves know about a defendant and the circumstances of the case. It was believed that neighbors and associates were the most competent to render a fair verdict. By the end of the 17th century, the principle that jurors must reach a verdict solely on the basis of evidence was established, and that practice continues today. Although California Supreme Court decisions have curtailed the historical criminal indictment function, the Grand Jury still serves as an inquisitorial and investigative body functioning as a “watchdog” over regional government.

The Mono County Grand Jury, as a civil Grand Jury, is not charged with the responsibility for criminal indictments except in the case of elected or appointed county officials. Its primary function is the examination of county and city government, including special legislative districts such as community service districts and fire protection districts. The Grand Jury seeks to ensure that government is not only honest, efficient and effective, but also conducted in the best interest of the citizenry. It reviews and evaluates procedures, methods and systems used by governmental agencies to determine compliance with their own objectives and to ensure that government lives up to its responsibilities, qualifications and the selection process of a Grand Jury are set forth in California Penal Code Section 888 et seq.

The Grand Jury responds to citizen complaints and investigates alleged deficiencies or improprieties in government. In addition, it investigates the county’s finances, facilities and programs. The Grand Jury cannot investigate disputes between private citizens or matters under litigation. Jurors are sworn to secrecy, and all citizen complaints are treated in strict confidence.

The Mono County Grand Jury is a volunteer group of 11 citizens from all walks of life throughout the county. Grand jurors serve a year-long term beginning July 1, and the term limit is two consecutive years. Lawfully, the Grand Jury can act only as an entity. No individual grand juror, acting alone, has any power or authority. Meetings of the Grand Jury are not open to the public. By law, all matters discussed by the Grand Jury and votes taken are kept confidential until the end of term.

One of the major accomplishments of a Grand Jury is assembling and publishing its Final Report. This document is the product of concentrated group effort and contains recommendations for improving various aspects of governmental operations. When it is completed, the Final Report is submitted to the presiding judge of the Superior Court. After release by the court, it is directed first to county department heads for review, then to the communications media. The Final Report is a matter of public record, kept on file at the court clerk’s office. It is also available on line at: www.monocourt.org.

GRAND JURY ADVISORS

Stan Eller

Judge, Superior Court, Mono County

Hector Gonzalez Jr.

Executive Officer, Superior Court, Mono County

Tim Kendall

District Attorney, Mono County

Marshall Rudolph

County Counsel, Mono County

Alyse Caton

Executive Assistant, Superior Court, Mono County

GRAND JURORS

2014-15 Grand Jurors

Jonathan Boyer, Foreperson
Mammoth Lakes

Karen Johnston, Assistant Foreperson
Mammoth Lakes

Sharon Clark
Mammoth Lakes

Karen Smart
Benton

Don Zeleny
Mammoth Lakes

Kenneth Murray
Mammoth Lakes

Robert Deforrest
Lee Vinning

Deb Pierrel
Mammoth Lakes

Cleland Hoff
Mammoth Lakes

Pam Bartley
Mammoth Lakes

Richard Hihn
Mammoth Lakes

**Mono County Grand Jury 2014-15
Case #01**

SUMMARY

The Grand Jury received via US Mail a one-page handwritten document that included nine photos printed on it, with a notation they had been taken in October 2012. The envelope did not have a return address, and the paper contained no identifying information about the sender.

The writer alleged that a named person in the Chalfant Valley area was dumping sewage, presumably illegally, at a vaguely specified location. The writer also referenced a Mono County Sheriff's case number, and alleged the Sheriff's Department and Mono County Code Enforcement had "covered up" the "sewage dump site." The writer also alleged that the person dumping the sewage was engaged in "extortion, blackmail and tax-evasion" but offered no details.

METHODOLOGY

The Grand Jury obtained a copy of the referenced report and reviewed it. A deputy documented his response to an address in January 2013 for a complaint of a tenant dispute, and that he spoke to the landlord and the two tenants. There were issues about rent and power and water, to which the deputy offered suggestions for mediation and renegotiation. The report also noted one tenant had accused the other tenant (living in separate residences on the property) of illegal dumping of sewage, although the accuser had never seen it happen. The deputy inspected the area in question and did not see or smell any evidence of spilled sewage.

FINDINGS/RECOMMENDATIONS

The Grand Jury concluded that the issue had been appropriately investigated and resolved by the Sheriff's Department. The vague allegations contained in the complaint and the lack of attribution did not give the Grand Jury any sense that the complaint needed to be pursued further, and the Jury voted to close the investigation.

RESPONSES

None required.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

The original complaint document and a copy of the MCSO report were sealed for the Grand Jury archive.

**Mono County Grand Jury 2014-15
Case #02**

SUMMARY

The Grand Jury received a memo and several pages of attachments, dated June 22, 2014, from the 2013-14 Grand Jury. The prior Jury recommended consideration of an examination of a complaint about an individual who had been dismissed by Mono County for allegations of misuse of funds. The funds were paid back and no charges were filed against the named individual. The former Jury was concerned that the individual in question might also be defrauding a special district within the county, but had no specific details. A handwritten, anonymous note had been received via US Mail to the Grand Jury Post Office Box insinuating that if the person in question had defrauded the county, he/she had perhaps done the same during involvement with the special district.

METHODOLOGY

The current Jury formed an investigation committee. That committee determined, after speaking with people with knowledge of the special district and of the specific individual, that the district's Board of Commissioners had taken steps to look into the same anonymous complaint, and that the vague allegation had become public knowledge within the district boundaries, prompting a higher level of resident scrutiny of the district. It did not appear that the Jury could add anything of value or cause to happen anything other than what was already going on in the community.

FINDINGS/RECOMMENDATIONS

There remained the possibility of doing a general investigation of the special district under the Grand Jury's legal scope to do so; however, it was decided to focus Grand Jury time and attention elsewhere. The Jury voted to close this investigation.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

The memo and supporting documentation from the 2013-14 Jury and the anonymous complaint were sealed and filed in the Grand Jury archive.

Mono County Grand Jury 2014-15
Case #03

SUMMARY

California Penal Code Section 925 charges a grand jury with investigating and reporting on the operations, accounts and records of the officers, departments and functions of the county. After realizing that no prior grand jury had performed such a review, the 2014-2015 Grand Jury selected Animal Control (AC) in Mono County as a function to be reviewed. Because half of the population in Mono County resides in the Town of Mammoth Lakes (TOML), Animal Control within the TOML was included in accordance with CA Penal Code Section 925a. Since the review was not a response to a complaint, the focus was on improving department function and making service more efficient.

BACKGROUND

An understanding of Animal Control in Mono County requires that one review the history of the Town of Mammoth Lakes (TOML) and the County/Town relationship during and after the incorporation of the Town. In addition, it is helpful to understand the budget for AC in both the County and the TOML and the statutory requirement for AC.

AC in Mono County has gone through three distinct periods: 1) prior to September 1986; 2) September 1986 until 2009; 3) 2009 until the present.

Prior to incorporation of the Town of Mammoth Lakes, all AC was performed by two County employed Animal Control Officers (ACOs). One ACO worked from June Lake north and east to the Nevada state line and the other serviced the south end of the county including Mammoth Lakes, Crowley, Sunny Slopes, Swall Meadows, Chalfant, Hammil and Benton. If either was unavailable, the other officer responded to calls throughout the County. Both officers were trained and allowed to carry firearms and they were re-qualified each year to do so. During a study session of June 5, 1985 with the Mammoth Town Council, the County Animal Control Director stated that the annual cost of the two officers and a part-time shelter attendant was approximately \$90,000. In addition, he stated that based on data from the 1981-1984 period, 452 dogs and 81 cats were picked up annually in the TOML which represented 63% of the dogs and 32% of the cats the County handled. He also estimated that there was a 70% license compliance in Town and that court fees, shelter fees, and license fees generated revenue of \$18,845.

Although the Town was officially incorporated on August 20, 1984, the transition of services from the County to the Town took several years. After considering other options, the Town Council approved a contract with the County for ACO services on September 18, 1985 and approved a contract for temporary shelter services at the old County-owned Whitmore fire station on 27 June, 1985. A decision was made to make the ACO a Town position in August 1986. At that time, one County ACO position was defunded and the south County ACO was hired to fill the Town position. Initially, the Town operated another animal control facility which could board animals and the staff developed plans to construct a new facility. On March 7, 1990, the Council directed staff to discontinue operations at the animal control facility due to liability problems, to discontinue planning for a new facility and to instead investigate upgrading the inadequate water and sewer systems at the Whitmore facility with costs to be shared with the County. The facility was subsequently upgraded and the Town agreed to pick up the cost of the Whitmore shelter attendant. On May 2,

2000, the Council approved Resolution 00-24 which created the Joint Powers Agreement for the management of the Whitmore Animal Shelter.

The final chapter of the TOML AC story began in 2009 when the Town staff was reduced to satisfy serious budget deficiencies. The Town ACO retired when it became clear that the position was going to be defunded. Other costs were reduced by defunding all services related to the Whitmore shelter. Currently, the AC service in the TOML is performed on an as-needed basis by uniformed police officers who can still deliver animals to the Whitmore shelter even though the Town does not pay for it. On February 17, 2010 the Council approved changes to Town Code Section 6.08 Animal Control And Wildlife Management Officer. This Code section provides for services within the Town boundary. The change added the wildlife control service as performed by a contractor who only deals with bear issues. The contractor is deputized with the same authority as an ACO, is provided a badge and uniform, and is authorized to carry a firearm.

The fiscal year 2013-2014 budgets for both Mono County and the TOML are available on-line. The adopted County 2013-2014 AC budget is for revenues of \$29,500 and Expenditures/Appropriations of \$516,344. The 2013-2014 TOML budget does not provide a breakout of revenues for AC but it does include \$60,864 for Animal Control Services.

There are extensive statutory requirements for AC. Of the sixteen California Codes, nine contain verbiage pertaining to AC. The governing statutes most pertinent to AC in the County are:

- a) Food and Agricultural Code Division 14 Section 30501 and following. This section states that the board of supervisors of any county or the governing body of any city may adopt code sections which cover regulation and licensing of dogs. It states that a county is not required to enforce the provisions within the territorial limits of any city located in the county.
- b) Health and Safety Code Division 105 Part 6, Section 121210 and following. These sections define the requirement for the County Health Department for control of rabies.
- c) Penal Code Section 597. The section governs Crimes Against Animals.
- d) TOML Code Title 6. This Code provides TOML statutes pertaining to animals.

METHODOLOGY

The 2014-2015 Grand Jury interviewed current Mono County Animal Control staff and current and former MLPD employees who supervise (d) Animal Control in Mammoth. The Bridgeport and Whitmore shelters were toured. In addition, the Mono County website and the TOML Granicus archive of Town Council minutes and resolutions were searched for relevant data.

FINDINGS

1. County Service Level. AC staffing level in the County is about the same as existed in 1984 when the County was also responsible for the TOML. That level is appropriate for the jurisdiction outside of TOML. The County Health Officer provides all required rabies control services. The County budget supports an appropriate level of AC.
2. TOML Service Level. Today, Mammoth Lakes has about twice the population it had when incorporated in 1984. From 1984 until 2009 AC service was provided by an ACO with access to a funded shelter. Today, AC service is provided as “other duties” by uniformed police officers from an understaffed TOML Police Department. Complaints are responded to when required. The TOML budget is inadequate for providing the service level required to enforce Title 6 requirements for licensing, vaccinations, interference with street use, barking and nuisance abatement.
3. Record Keeping. Records for complaints, licenses, and vaccinations are maintained as hand written records at both the County and TOML levels. Today, it is difficult to obtain data similar to that cited by County Animal Control Director in 1985.

RECOMMENDATIONS

1. County/TOML Service Level. Although the County is not required to provide AC services within the TOML, the Code does not preclude it. The TOML should consider providing an adequate budget for contracting with the County for AC services.
2. AC Record Keeping. The County and TOML should implement common AC software for record keeping.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

Mono County Board of Supervisors, Findings #1 and #3 and Recommendations #1 and #2

Mammoth Lakes Town Council, Findings #2 and #3 and Recommendations #1 and #2.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

Mono County Grand Jury 2014-15
Case #04

SUMMARY

The Town of Mammoth Lakes (TOML) relies heavily on Transient Occupancy Tax (TOT) to fund the Town's operation through the General Fund. Between 60 and 70 percent of yearly operating expenses historically are covered by TOT. In 2013, the TOML instituted Tourism Business Improvement District (TBID) fees. While TBID is a fee and not a tax, TBID collection was folded into the system commonly referred to as "tax collection." The TOML Finance Department is responsible for collecting TOT and TBID, but budget cuts and staff reorganizations in recent years have changed the structure and management of the department, perhaps not for the better.

The 2014-15 Grand Jury wanted to determine whether the TOML Finance Department is collecting taxes with effective supervision and oversight using proper processes as outlined in the Town Municipal Code. Our decision to conduct this investigation was prompted by a written complaint submitted to the Grand Jury by a citizen.

During our investigation, we found a poor working environment in the Finance Department. Within the department there is inadequate communication, poor teamwork and little trust. We found procedural shortfalls, particularly in the areas where the Municipal Code allows for a great deal of flexibility. We found a lack of management accountability and also a lack of operator (business taxpayer) accountability. We found that there is an almost complete lack of training for both employees and businesses. All of these things combine to affect service to the public, and raises the possibilities that the Town is giving preferential treatment to some operators, losing tax revenue to which it is legally entitled, and that operators are, in some instances, overpaying.

The Grand Jury recommends the Town Council, as the setter of policy, instructs the Town Manager to take steps to improve transparency, efficiency, accountability and morale in the department, as well as institute training for both employees and tax remitters.

GLOSSARY

Transient Occupancy Tax is 13% of the gross rent charged by lodging operators. Rent is defined by the Mammoth Lakes Municipal code as any non-refundable costs paid by a customer to secure a unit for rent, such as the actual room cost and any additional charges, such as resort fees, pet fees, cleaning fees, etc. It does not include Federal, State or local taxes or the cost of food or beverage.

It is due the 20th of each month, with the payment being for the prior complete month. Example: TOT paid on January 20 is for the amount collected by the lodging operator from December 1 through December 31. If the payment is 1-30 days late, a 15% penalty, or \$10 is added, whichever is greater. If the payment then becomes 31 or more days late, an ADDITIONAL 15%, or \$10 is added, whichever is greater. Delinquent payments are ALSO subject to an interest payment, which is calculated at 1.5% of the original tax payment, times the month(s) delinquent. A partial month of delinquency is charged as a full month on the interest payment.

The dollar amount reported by an operator is accompanied by a declaration from the reporter, signed under penalty of perjury, that the amount is "a true, correct and complete statement of the rents received." Thus, TOT is reported on the "honor system," a standard in California municipal and county government.

Tourism Business Improvement District fees are 1% of the same gross rent standards. TBID also carries the same delinquency penalties and interest as are charged for late TOT.

Town of Mammoth Lakes Finance Department, Tax Collection section: The Town Manager has ultimate oversight of Finance. The Town Manager works for the Town Council. The Finance Director reports to the Town Manager and acts as the Tax Collector per the Municipal Code. The Accounts Manager supervises all work pertaining to the collection of all taxes and fees imposed by the Town per the authority of the Municipal Code and any applicable State and Federal codes. He/she reports to the Finance Director. Three Revenue Specialists report to the Accounts Manager. Each Revenue Specialist has a case load of approximately one-third of the approximately 800 businesses that remit any taxes or fees to the Town.

An **Operator** is any business in town that pays Transient Occupancy Tax. These include hotels, motels, condominium complexes, rental agencies, and/or individuals who own residences eligible for transient occupancy rent. Each operator is issued a Business Tax Certificate Number by the Town Finance Department.

BACKGROUND

The Grand Jury received a complaint from a citizen with knowledge of the TOML tax collection procedures. The complainant also has long-standing knowledge of general accounting practices and of public service and customer relations.

The complaint alleged in part that the municipal codes governing tax collection were not followed in a particular case. The complainant alleged that the Town Manager and Finance Director had conspired with an operator to reduce the required tax burden. In addition, the complainant alleged that there had been secret meetings between the operator and the Town Manager that resulted in a gift of public funds. Furthermore, it was alleged that certain members of the Finance Department staff had been coerced, threatened and retaliated against after they challenged the Town Manager and Finance Director about the alleged misconduct. There were additional allegations of personnel issues, which the Grand Jury determined were not within its scope to investigate, but they did lead to general and relevant observations about departmental staffing, policies, procedures and accountability.

METHODOLOGY

Documents

The Grand Jury reviewed the following documents from the Town of Mammoth Lakes Finance Department:

Tax appeal: 382 Hillside Drive, February 20, 2013

Tax appeal: Austria Hof/Slopeside Rentals, March 6, 2013

Tax appeal: 275 John Muir Road, May 15, 2013; June 19, 2013; July 24, 2013

Tax appeal: 344 Starwood, October 16, 2013

Town of Mammoth Lakes Code, Chapter 3.12 Transient Occupancy Tax

TOML Transient Occupancy Tax Audit Procedures, last update 8/2012

Revenue Collection TOT and TBID Policies and Procedures, Town of Mammoth Lakes Finance Department, August 2014

Resolution 2013-61, Mammoth Lakes Town Council, Establishing the Mammoth Lakes Tourism Business District, July 24, 2013; including Agenda Bill

Town of Mammoth Lakes Tourism Business Improvement District Staff Direction for Facilitating TBID; Appeal Process and Procedures, undated

Town Council of Mammoth Lakes: agendas listing TOT matters; May 4, 2011; June 1, 2011; June 15, 2011; November 2, 2011; January 4, 2012; April 18, 2012; October 18, 2012; January 25, 2013; February 20, 2013; March 6, 2013; May 15, 2013; June 5, 2013; June 19, 2013; July 3, 2013; July 24, 2013; October 16, 2013; April 2, 2014

TOT remittances, specific TOT case investigated, January 2012 through July 2014

Grand Jury records request for any and all documents pertaining to: policy and procedure governing TOT and TBID collections; the particular 2014 TOT case investigated; and to any TOT appeals filed in 2013-14.

Town of Mammoth Lakes email system documents, 106 total. Because all of the emails pertained to the tax case in question, they are not appended here because they contain confidential information under the Town Municipal Code. Many of the emails were replies and/or forwards, so the records request produced numerous duplications of documents when entire email chains were reproduced to be provided; all copies were sealed to be filed with the Grand Jury's documentation for the 2014-15 term.

Interviews

During the investigation, the Grand Jury interviewed eight people, including the complainant, current and former employees of the Finance Department and the Town Manager's office, and members of the Town Council.

DISCUSSION

The Specific Tax Case

Because the Municipal Code makes TOT and TBID returns confidential (section 3.12.150) only generalities can be provided in this report. The Grand Jury, however, was entitled to, and did examine, the specific paperwork for this case.

In September 2014, some members of the Finance Department became aware of a possible TOT and TBID error or deliberate omission being made by a lodging operator. An outside complaint was made to the Finance Department stating that a certain lodging business in town wasn't paying appropriate taxes, allegedly because a taxable fee charged to customers was not being reported as taxable revenue. The TOML does accept "tips" on TOT and TBID irregularities from anyone, including those who wish to be anonymous.

All tax paying businesses are assigned to specific Revenue Specialists within the Finance Department and the Specialist assigned to the accused lodging operator investigated the complaint. At issue was the amount of taxable revenue being reported and the length of time the alleged underreporting had been going on. The Revenue Specialist created a mock-up of potential taxes owed, going back over a three-year period, using common sense assumptions and historical data from the establishment. Creating such a mock-up of delinquent taxes owed is a standard process known as an assessment and provides a starting point for a conversation with the operator with the object of getting the actual and verifiable numbers from the operator. Since back taxes owed are also subject to penalties and interest, the total estimate in this case was a large sum of money.

The Revenue Specialist was not successful in getting the operator to answer emails or phone calls, or address the certified letter, to determine if indeed there was a discrepancy. Instead, in December 2014, three months after the Revenue Specialist had started trying to contact the operator, the operator had an impromptu discussion with the Town Manager. The Town Manager told the operator to work with the Finance Director to determine taxes owed. Even though the town code allows for an operator to go to the Town Manager or the Finance Director to discuss taxes, some staff members in the department felt that this constituted a back-room deal. This was reinforced in two ways: firstly, that the Finance Director openly discussed the benefits of waiving penalties and interest in this case with the staff and implied the Town Manager agreed, and secondly, that the operator met with the Finance Director in a private meeting to discuss taxes and penalties owed, a meeting that did not meet the standards of a "hearing" that is described in the Town Code. There was mixed opinion among staff as to whether this was inappropriate. In this private meeting the operator brought in information about back taxes owed, including when the underreporting had started. This information was not provided as a formal, validated, remittance document with supporting documentation that is expected at a tax discussion, and the back taxes admitted to by the operator were vastly lower than the estimate calculated by the Revenue Specialist. After this meeting, the Finance Director told the Revenue Specialist to complete the tax assessment using the new, unsupported numbers supplied by the operator.

At this point, the Revenue Specialist refused to do any further work on the case, notifying the Finance Director that he/she could not ethically do so, at least according to his/her interpretation of the town code. At this time the Revenue Specialist also proposed an audit of the business, but the Town Manager did not agree that an audit was appropriate. The Finance Director then assigned another employee in the department to complete the tax assessment with the operator's new numbers. Since accepting an operator's numbers as accurate is normally a standard procedure (the honor system), this employee accepted the assignment and created a tax assessment with the new, though unsupported, numbers. In late December 2014, this employee made the new

assessment without speaking with the original Revenue Specialist about the potential issues. This employee told the operator that a tax assessment would be made with the unofficial numbers. The employee also instructed the operator to submit signed amended returns for the contested time period as soon as possible. Those amended returns did not come in, despite repeated communications with the operator, until mid-April 2015, almost four months after being requested. As of April 2015, the Finance Department officially closed this case; the operator admitted to some underreporting of revenue and taxes, and interest and penalties have been paid. However, there remains a sense of impropriety as the operator claimed the error only went back five months when the original Revenue Specialist assigned to the case suspected that underreporting had gone on for closer to two years. This possibility has not been looked into and without an investigation/audit is unlikely to be cleared up one way or another. The perception that the entire process was a political favor handled behind closed doors was a strong view held by some employees in the course of the investigation.

GENERAL FINDINGS

After conducting this investigation, which included a review of the relevant sections of the municipal code, the Grand Jury found no hard evidence of any crime, but did find poor judgment and a lack of transparency, communication and documentation within the Finance Department, all of which contributed to the perception of wrongdoing. Municipal Code section 3.12.130 says any operator failing to report and remit TOT by the monthly deadline allows the tax collector (which includes delegation of the work to a Town Revenue Specialist) to "proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due [the tax assessment]." The "facts and information," includes, but is not limited to, historical tax data from the property in question and/or data from comparable properties. This assessment is then relayed to the operator, who can either pay it or submit a written request for a hearing to dispute the dollar amount. At that hearing, the operator is expected, per code, to "offer evidence why such specified tax, interest, penalties and enforcement charges should not be so fixed."

The complainant believes this language to mean that the operator must provide actual business paperwork (ledgers, bank statements etc.) to support a presumably lower tax number than the one calculated by the Town. The complainant also believes that such a discussion needs to be at a formal hearing. In documents requested by the Grand Jury and provided by the Town, there were examples of other cases where bank statements and similar documents were attached to the file, showing that other lodging operators had provided that type of information during the resolution of their cases. The complainant alleged lack of such paperwork in this case and lack of a formal hearing, ultimately characterizing the process as being very informal with little or no documentation and alleging it did not involve the correct people.

The Grand Jury found that interpretations of the Municipal Code varied among the staff with different levels of comfort about who should be doing what. The phrases that created the most confusion were, "as he [the Tax Collector] may deem best to obtain facts and information," and an operator's duty to "offer evidence." It became clear that there is no accepted practice within the department because there is little to no training or set procedures given to the staff. The Town does have a "Revenue Collection TOT and TBID Policies and Procedures" document, dated August 2014, but it lacks details such as employee job descriptions, supervisory duties/descriptions, current staffing flow chart, glossary of terms, and set procedures for what should be done in exceptional situations,

such as when a staff member has reason to suspect the accuracy of numbers given under the "honor system".

Based upon the conversations of those people interviewed, the Grand Jury concluded that it did not appear that there were any secret meetings involving the operator in question nor had there been a conspiracy to illegally reduce taxes or penalties and interest owed. The interpretation by some members of staff that all person-to-person conversations must be in a hearing setting was not upheld by the wording in the Municipal Code. However, the Grand Jury concluded that there were sufficient questions raised to warrant an audit on this particular business. Audits going back three years are allowed for in the Municipal Code. Additionally, the Grand Jury feels the Town could insure an unbiased report by using an outside auditor with municipal government tax experience. The Grand Jury recognizes that this is a complex decision, as audits may or may not uncover money owed and even when they do, the recovered money may or may not cover the cost of the procedure. Nonetheless, the Grand Jury feels that the difficulties created by this case warrant the additional investigation that an audit would provide. Finally, the Grand Jury did not find any evidence of coercion of, or implied/overt threats to, employees to prepare unethical work. It was apparent that many conversations between all levels of employees were construed in ways to match the person's preconceived notions and that misinterpretation or jumping to conclusions was a major cause of many of the misunderstandings between staff members. Without a sense of teamwork that allows for respectful discussions and questioning of actions, everyone is left to their own assumptions and biases about why certain events are occurring.

This case also allowed the Grand Jury to look at the general workings of the department, which led to the points described below.

Procedural Issues: Audits and the "Honor System"

When a business operating in the Town of Mammoth Lakes is required to pay TOT and/or TBID, a representative of that business, otherwise known as the remitter, fills out and files a remittance document entitled, "Monthly Return for Transient Occupancy Taxes (TOT) and TBID." A copy of the remittance document is attached in the report appendix.

The remitter signs the remittance under penalty of perjury, certifying that the dollar amounts listed are "true and correct." If a remitter "intentionally provides and delivers false information" on a remittance, the crime of perjury has been committed. It is a felony and can be punishable with prison time, but is generally adjudicated with a fine (up to \$10,000), probation, and little or no local jail time. The Grand Jury found in this investigation that TOT/TBID remittance forms are taken at face value and the matching checks for tax remittance are deposited and receipted largely without question. Revenue Specialists sometimes have the time to spot check remittance forms, but the process generally runs on the honor system. This appears to be an accepted practice among small towns. The towns, however, have the legal power to audit businesses at any time. Legally, the limit in California for records retention, and, therefore an audit cycle, is six years. The TOML, under Municipal Code section 3.12.150, has chosen to require a three year records retention period. This means that the TOML should audit all tax remitters once every three years, or risk losing access to relevant data. Since the TOML has around 600 TOT remitters that would mean around 200 audits per year would have to be conducted to truly know whether tax remittances were correct. According to the TOML's own document titled "TOML Transient Occupancy Tax Audit Procedures" (last revision, August 2012), each audit reasonably takes three to five days, and requires an audit team

of at least two people, plus data entry time. To complete 200 audits per year, at least six people would have to be doing nothing but audits. The Grand Jury understands that the staffing required for 200 audits per year is not feasible for the TOML. However, doing no audits at all, as is current practice, is an equally bad scenario. The Town Manager should find a way to allocate staffing to complete some number of audits per year, to include a mix of large and small remitters and accounts that "red flag" themselves in some way. Doing a small number of spot audits per year is still a meaningful check and balance. Accepted government practice indicates that no entity audits every business in every records cycle, as audits should be a surprise, not something that comes up on a predictable basis. The Grand Jury was surprised to find that audits have not been conducted on any business in recent memory (possibly since 2009) especially given that the TOML recognizes the value of such procedures. According to the Audit Procedure manual, audits do the following:

1. To determine whether the operator is in compliance with the Town's Transient Occupancy Tax Ordinance section 3.12.
2. To determine whether revenues reported in the tax returns agree with the general ledger and are supported with source documents.
3. To perform the audit in accordance with generally accepted auditing standards and generally recognized sampling techniques in order to yield a fair and impartial result in accordance with the normal conditions of the business.
4. To educate operators regarding Transient Occupancy Tax reporting, collection and enforcement efforts.

While it appears the vast majority of tax remitters do so honestly and correctly, it is not prudent for the Town to continue on a course where no one in the system is held accountable.

The Working Environment in the Finance Department

In conducting interviews for this investigation, the Grand Jury found instances of significant communications breakdowns among Finance staff members which seemed to foster a lack of teamwork and trust. For example, many vital communications appeared to happen via emails, which are prone to misinterpretation. In another example, during the hand-off of the case in question from the Revenue Specialist to the employee newly assigned the duty, there was no conversation between the two staff members about the case. This lack of communication within the department exacerbates the fact that employees have little common understanding of some procedures. This appeared to result in employees drawing their own conclusions, which, in complex cases, resulted in problems. It also appeared to the Grand Jury that personality conflicts in the workplace are not addressed, or if they are, they are not addressed to the point of being resolved. These are personality conflicts that seem to negatively affect the quality of the work.

This complaint highlighted for the Grand Jury how much Finance Department staff turnover, changes in duties and assignments for many employees, and frequent changes in supervisors, including the Town Manager, has contributed to the poor working environment over the past three years. As a side note, the Town is in the process of upgrading its accounting software. It is expected that this will streamline data entry process. This might give staff time to reinstate the audit program in some form.

Training, Both Internal and External, Including Written Policy and Procedure

The Grand Jury's investigation found that tax collection policies and procedures are lacking. The Finance Department should make it a priority to update or create manuals to give all tax collection employees clear direction. Where the Municipal Code allows for interpretation or flexibility, the manuals should address best accounting practices as applied to the TOML. The department should consider requiring a team approach to problem tax cases, particularly for assessment hearings. With two employees in a meeting with an operator, transparent results and mistakes can be minimized. Clear guidelines for documentation of questions from operators, especially in cases that become complicated or a problem, would also safeguard the TOML and individual employees from allegations of impropriety or wrongdoing.

The one clearly defined policy/procedure in this section is the Audit process. There are many aspects of this procedure that can be adopted for complex or problem TOT accounts that have not yet reached the audit stage, particularly in methodology, documentation and supervision.

As for TOT and TBID remitters, the investigation revealed that operators are confused about which revenues must be included, which can be eliminated, and which can only be excused with a formal waiver. The last time the Town made an attempt to train operators on TOT was in 2009. There are instructions on the forms and on the Town website, but several people interviewed believe this is not sufficient customer service. There was an indication that the department had put some planning into re-tooling and reinstating the training, but it was unclear whether the latest reorganization in the department would continue to support the effort and actually get it to happen. The current TOML management team should strongly consider finishing the job. While making sure the TOML gets all the revenue to which it is entitled is a compelling argument, providing excellent service and facilitating good relationships with TOT and TBID operators should also be important.

SPECIFIC FINDINGS

- F1 The Town Finance Department had a problem tax case that needs to be looked at in detail to determine whether or not the Town of Mammoth Lakes received all TOT and TBID owed.
- F2 The Town Finance Department needs to adopt formal policies and procedures for the tax collection section.
- F3 The Town Finance Department needs to train employees and tax remitters.
- F4 The Town Finance Department needs to reinstate the TOT audit program.
- F5 The Town Finance Department staff has a lack of teamwork.

RECOMMENDATIONS

- R1 The Town Finance Department should pay for an outside audit on the business that was the subject of this complaint.
- R2 The Town Finance Department should write a policies and procedures manual.

R3 The Town Finance Department should train employees on the polices and procedures manual; the department should also train TOT remitters by updating its old training program.

R4 The Town Manager needs to set staffing in Finance sufficient to handle collections and audits.

R5 The Town should hire a consultant experienced in team building to address the lack of respectful communication and trust in the Finance Department in order to create a professional working team.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

Town Manager Dan Holler, Findings 1-5 and Recommendations 1-5.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

APPENDIX

Copy, Monthly Return For Transient Occupancy Taxes (TOT) and TBID

Mono County Grand Jury 2014-15 Case #05

INTRODUCTION AND BACKGROUND

As a result of a complaint, the Mono County Grand Jury (MCGJ) has investigated the Mono County Assessor's Office (MCAO). The function of the MCAO is to annually assess all taxable property in the county. The head of the MCAO, the Mono County Assessor, is an elected official. The current Assessor began work in June of 2003 as a Property Appraiser and was appointed interim Assessor

in October of 2014 by the Mono County Board of Supervisors. In January of 2015, he assumed his elected position as Assessor.

THE COMPLAINT

In March of 2015, the MCGJ received a complaint from a private citizen on behalf of some employees of the MCAO. The complaint alleged three broad concerns: a hostile work environment, unrealistic workloads, and unauthorized computer access. Upon investigation, the MCGJ was given numerous examples of a poor work environment, as well as uneven and possibly unethical treatment of office employees.

Some employees allege that the reason for such treatment was their political non-support of the Assessor during the public election in 2014. Sometime during January or February of 2015, one or more employees filed a harassment charge with their Public Employees Union representative (PEU). The PEU in turn filed a complaint with Mono County and an investigation was subsequently initiated. The Mono County Board of Supervisors required hiring an outside contractor to conduct the investigation. The staff was interviewed and was told the report would be made available to them. However, the final report was deemed confidential under attorney/client and client/work product law and was not released.

METHODOLOGY

DOCUMENTS

The Assessor provided the MCGJ with two personnel “flow charts.” One chart showed the office personnel under the previous Assessor; the other showed the office personnel under the current Assessor. Under the previous Assessor there were nine positions listed: Assessor, Assistant Assessor, four appraisers (one of whom is now the current Assessor), one Auditor Appraiser, one Appraiser Aide, and one Fiscal and Technical Specialist (FTS) IV. Under the current Assessor there are seven positions listed: Assessor, Assistant Assessor (vacant), two Appraisers, one Auditor Appraiser, one Administrative Services Specialist, and one FTS IV.

Also provided by the Assessor were three photographs of some staff offices. The Assessor states that one photo is of the original arrangement, the second one is of the Assessor’s adjusted arrangement, and the third is a compromise between affected employees and the Assessor. Members of the MCGJ visited the offices to get a first-hand look at the current arrangement.

INTERVIEWS

During the investigation the MCGJ interviewed twelve people, including the complainant, County Counsel, the District Attorney, the current Assessor, the immediate past Assessor, and all MCAO employees who worked under the current and immediate past Assessor.

DISCUSSION

Information learned from specific interviews is as follows:

1. Complainant interview. The complainant outlined the various issues and made suggestions for people we should interview.
2. County Counsel interview. As a result of this interview, we learned that County Counsel was “generally aware” of the situation, although it was the County Counsel’s deputy who most closely worked on the case. We learned that an investigation was conducted on behalf of Mono County and that a report existed, but that neither the MCAO employees involved nor the MCGJ were allowed to know the contents of the report. The reason given to the MCGJ was that the report was confidential under attorney/client and attorney/work product law. At least two employees said they were told they would receive a copy of the report, though ultimately it was never provided.
3. District Attorney (DA) interview. The DA was asked about the possibility of a subpoena for access to the report. After a preliminary investigation, the DA confirmed the confidentiality of the report under attorney/client privilege and work product law. We were also told that the confidentiality would not be waived.
4. All office employees were interviewed, as well as the Assessor and immediate past Assessor. It is clear to the committee from the interviews that there is a deep, ongoing rift between two “camps” of employees that has worsened over time. The division of the two camps appears to be largely between those who supported the current Assessor during the 2014 election and those who did not.

Additional information found relevant to the complaint is as follows:

1. Hostile Work Environment. Soon after being appointed interim Assessor, the Assessor rearranged the configuration of office cubicles in order to “keep an eye” on office personnel. The change was made while several employees were away for a training program, with no advance notice to the employees who were away. Upon their return, these employees were upset at the office arrangement, and believed it was in retaliation for their non-support of the Assessor during the election. The employees noted that those who supported the Assessor kept their private offices. As a result of the complaints, the Assessor stated that he modified the arrangement, with staff helping with the move, but under his direction. The Assessor took photographs of the office at different stages of reconfiguration.

Throughout the course of the interviews the MCGJ heard a variety of accusations stating that the Assessor used language and/or actions designed to be intimidating, disparaging, and retaliatory to some members of the staff. Other employees stated that these accusations were not true, and that the accusers needed to “let go” of the past election issue. Parties from both sides agreed that the office environment is unhealthy, and that they often do not speak with one another. No one in the office seems to have a solution to the problem.

2. Workload. The workload in the Assessor’s office is heaviest between January 1 and July 1 when all county properties subject to taxation are assessed. From July 1 to December 30, the work shifts to ownership transfers, completion of deferred construction, mapping, training, audits, and hearings. There are approximately

17,000 county properties to be assessed. Some of these properties are easier to assess than others. For example, the assessment of commercial property is the most time consuming, private homes generally less so, and condominium homes even less so. Large and unique properties are particularly difficult to assess and require appraisers with specific experience and knowledge of those types of properties. The MCAO has discretion to hire outside experts to assess the more unique situations, but the current Assessor appears reluctant to do so.

The current Assessor instituted a system of weighted scale “units” as a guideline for the amount of time it should take to complete an assessment. One unit is equal to one hour of work, and ten units of work are required daily. Due to the resignation of one employee, that employee’s workload was divided among all remaining qualified employees. The Assessor also requested and was given permission to award a temporary appraiser certification to a current employee so that person could help with the workload. Employees differed in their opinion as to whether the workload was reasonable or unreasonable, again depending upon which side of the political fence the employee was on.

The Assessor stated that closing the 2015 tax roll by the mandated deadline of June 30 would be close, but that the office would be able to do it. Many employees either disagreed with that statement, or said that the deadline could be met only at the expense of accuracy. This raises concerns about revenue due to the County, the Town of Mammoth Lakes, and all of the special districts in the County (school, fire, hospital, public utilities, etc.). All of those budgets count on revenue from the assessed value of taxable property within the County.

3. Unauthorized computer access. More than one employee stated that they witnessed the current Assessor accessing a former Assessor’s computer. There is considerable computer security in the office, and all employees are required to learn IT protocol on the subject. The committee heard both affirmations and denials of the incident, depending upon whether those interviewed were political supporters or non-supporters of the Assessor. At least one person said they did not understand how that access could have occurred, given the security. The Assessor denies that there has been any unauthorized computer access under his leadership.
4. Mediation. The Assessor stated that he was responsible for initiating a mediation procedure to resolve office tensions, although the MCGJ suspected it was due to direction from the confidential County report. The mediation process is currently underway, and is expected to take six months. The MCGJ was told that the mediation facilitator openly acknowledged the office tensions. Although there are early suggestions that the mediation process will be useful, employees on both sides of the office rift are annoyed with the process, saying that it is time consuming and unnecessary.

FINDINGS

- The MCGJ believes there is a clear picture of dysfunction within the Assessor's Office. The office appears to be divided into two "camps" of employees, with various and conflicting points of view among all involved.
- The MCGJ believes the current number of employees in the Assessor's office is too small to support the workload in a timely and accurate manner. In addition, the MCGJ believes that without expert and independent appraisers, the County, Town of Mammoth Lakes and all special districts will lose revenue in the assessment of large and difficult properties.
- In spite of repeated allegations that current and past Assessors illegally accessed other employee's computers, the MCGJ was unable to find hard evidence supporting the complaint.
- Members of the MCAO were told that the report from the County investigation would be released to them but that has not been done.

RECOMMENDATIONS

- The MCGJ believes that the Mono County Board of Supervisors should more closely monitor the morale of the MCAO employees. In addition, the MCGJ believes that the already initiated mediation procedure is a potentially useful one that should be carried out to completion. It should be taken seriously, and honest efforts should be made by all parties for the sake of the office environment.
- The MCGJ believes that given the current state and past history of problems within the MCAO, the Mono County Board of Supervisors should appoint an independent party to oversee office personnel. The MCGJ feels this is necessary to insure that the timeliness and accuracy of the critical work of the Assessor's Office is not jeopardized.
- The MCGJ believes that additional appraiser staff, including experienced appraisers with knowledge of large and difficult county properties, should be hired to insure that the mission of the Assessor's Office is carried out in a timely and accurate manner.
- The MCGJ believes the County investigation report should be released to the staff. If this report cannot be released for intractable legal reasons, a legally defensible general summary, findings and recommendations should be made available. If that is not possible, involved employees should receive a written explanation detailing the reasons for the non-release, and any further recourse they may have.

Pursuant to Penal Code section 933.05, the Grand Jury requests responses from:

The Mono County Board of Supervisors, findings and recommendations 1-4

Assessor Barry Beck, findings and recommendations 1-4

**2014-15 Grand Jury
Statutory Examination of the Mono County Jail, Bridgeport**

SUMMARY

The 2014-15 Grand Jury visited the Mono County Jail in Bridgeport as statutorily required by Penal Code sections 919(b), 921 and 925. The Jury also observed at two currently unused holding facilities: the Juvenile Probation building in Bridgeport and the Mammoth Branch of Mono Superior Court.

GLOSSARY

AB 109 -- The designation given to the legislation that, among several things, moved the responsibility of housing some inmates from state prison to County jails to serve their sentences. This means prisoners could be housed in the local jail for three or more years instead of months or days.

AB 900 -- A funding mechanism available to counties to expand/improve jail facilities to accommodate the influx of prisoners as a result of AB 109. The structure of the Assembly Bill, however, meant all of the money was quickly claimed by large population counties, and Mono County received no funding.

AB 867 -- The latest funding mechanism available to counties to expand/improve facilities, AB 867 was written for the counties with lower population numbers who were shut out of AB 900 funding. Mono County will qualify for the funding, but will have to compete for it, as is the custom in these types of programs.

METHODOLOGY

A five member delegation from the Grand Jury visited on April 7, 2015. At the Jail, the committee spoke with Mono County Sheriff-Coroner command staff and three members of the Jail command staff. The group toured the entire facility in person.

The committee also toured the Juvenile Probation Department, although it is no longer used as a custody facility, and spoke with Probation officers and staff.

A cursory examination was made of the Superior Court holding facility in the Mammoth Courthouse, along with conversations with Sheriff's Department staff acting as bailiffs and court screeners in the facility.

DISCUSSION

Specific observations about the County Jail are noted in detail in the attached California Grand Jurors' Association document entitled "INSPECTION FORM."

Generally, the committee found the facility to be in good working order, properly staffed (with the exception of the kitchen), and equipment up to date and in good condition.

The Sheriff and Jail command staff believe the facility is currently handling prisoner numbers well, although the impacts of AB 109 will take some years to be accurately evaluated. Facility capacity is

48. At the time of the inspection, the facility housed 19 inmates. Of those 19, seven are AB 109 prisoners; one inmate serving an eight-year sentence, and six more committed to three-year terms. Although the facility is generally sized appropriately for a county of Mono's size, overcrowding does remain a possibility, and has happened in past years. Factors that are always present include: the female population increasing or one or more complex segregation situations presenting. Both are now more possible because of AB 109. The jail staff has a number of stringent legal obligations to ensure that prisoners with backgrounds likely to cause conflict (one example: rival gang members) are kept in separate areas of the facility. In a jail with a relatively small footprint like Mono County, a single prisoner could end up housed in a space designed for several, pushing other inmates into areas already close to or at capacity. Jail staff is confident that a variety of tools are available to ease short-term crowding situations, such as early release of qualified inmates. Also, Proposition 47, passed in 2014 by California voters, notably reduced sentencing requirements for a number of crimes, and the loss of half of the Mammoth Lakes Police Department and elimination of 24-hour patrol in the Town has dropped the number of prisoners taken to Mono County.

One of the issues that housing long-term inmates has created is whether outside programs available to inmates can be reasonably expanded to offer some rehabilitative opportunities. Obviously, the California State Prison system is far better funded and equipped to provide programs like education, job skills and the like. As an example, the Mono County Office of Education currently does not have budget or staff to provide a high school equivalency (GED) program in the jail. If the long-term population does increase, such funding might have to be considered by both the Education and Sheriff's departments. One thing that is being pursued currently to position the jail facility for possible expanded programming is a planned conversion of the former Emergency Operations Center in the administrative part of the Sheriff's office complex into a secure part of the jail for use as a meeting/classroom for inmates. This is possible because the room is located directly next to the secure jail area, and relatively simple construction to add secure doors and walls will safely quarantine it from the business side of the building and fold it into the jail side. In the short term, this will allow religious services and counseling programs like Alcoholics Anonymous, currently held in much smaller parts of the jail, to move to a more appropriate setting. In the long term, additional educational or job skill programs could be housed in the room. AB 867 funding is expected to be available soon, and jail staff is already working on Mono's application. Funding is available in the \$60,000 to \$180,000 range, with a 5% match required from the county. The Sheriff hopes Mono will receive the funding. If not, there are contingency plans to attempt to find whatever the cost of the project turns out to be somewhere in the county budget to see that it still is completed.

One program that has always been available to county correctional facilities is an inmate worker program. Mono is fully committed to this, with inmates qualified to be outside of the jail working to wash and detail County and Town of Mammoth Lakes owned vehicles, and to do lawn and landscaping maintenance and care in all the Mono County parks and cemeteries. In years of substantial snowfall, inmates also work on behalf of the fire departments to make sure hydrants are free of snow and ice in case of emergency. "The inmates take a lot of pride in it," according to staff. While the work is limited, it does help the County Parks and Facilities division to save some money. The work program is open to both male and female prisoners. Also available at times are jobs preparing mass mailings from the County, such as from the Tourism or Health departments. These "envelope stuffing" jobs enable inmates who can't do physical labor, or who can't qualify to be outside of the jail, to do work that saves money for whatever department needs it. Medical and mental health treatment is readily available to inmates. The staff particularly wanted to commend the Bridgeport medical clinic staff, and Behavioral Health Director Robin Roberts and her

staff for their commitment to working with the jail staff in meeting mandates for care, as well as offering extra programming when appropriate. Behavioral Health counselors visit once a week, plus a psychiatrist from UCLA Medical Center is available by a telemedicine computer/camera connection. Most of the clergy in Mono County also offer some type of regular outreach to inmates, and citizen volunteers provide Alcoholics and Narcotics Anonymous meetings and support at least once a week.

Formerly, the jail budget included around \$11,000 to maintain a law library. Now, for less than \$500 a year, the jail maintains a subscription to a legal research service, and provides hardcopies of the five most used code texts.

The visiting hours have been expanded because of the AB 109 inmates. Evening hours have been added.

The inmate store, which is allowed by law, but not required, sells snack food and toiletry items, plus phone cards. The profits are used to pay for the TV sets in the common areas, plus the cable subscription for them. It has also purchased all of the gardening and vehicle detailing equipment and protective clothing used by the work program. According to the jail staff, inmate money has always been used for these items, instead of taxpayer dollars from the county budget.

New since the last inspection is the dispatch center remodel. The work stations and chairs feature the latest in ergonomics to minimize injury potential of repetitive hand movement and being seated for long hours. The control of doors, lights, water, power and other jail infrastructure is now much easier for staff as it is on the computer consoles instead of a separate control board. New surveillance cameras and audio throughout the building were also updated to current technology, offering better coverage in the building and better retrieval/archiving of images and audio.

The only concern noted was the fact that the jail kitchen staff remains, as it has for several years, at two employees. Each budget year, there has been a request for a third employee, as there is no provision for a part-time relief cook. When someone is on vacation, or if one of the cooks was ill or injured for a long period, there is only one cook to work seven days a week, which results annually in a large overtime cost just for time-off coverage. Such overtime usage in the case of a long term employee injury or illness would likely exceed the cost of a relief cook's salary and benefits. The jail serves the biggest meal of the day as a hot lunch to allow the cooks to prepare dinner as a cold meal (sandwiches or similar) that is easily served by jail staff in the evening after the cooks depart in the late afternoon. This allows for scheduling only one shift in the kitchen to keep costs appropriate for a small facility. Some inmate worker help is available, but it is limited to serving and cleanup, and is only available when there are inmates in the facility who can qualify to hold that position.

Since the Probation office in Bridgeport no longer contains a juvenile holding facility, it is no longer subject to Grand Jury oversight. However, the Jury members noted that a structural issue still remains that could compromise the safety of the employees there. The lobby of the building remains an open space, with direct access to the Probation Administrative Assistant, and also to the remaining office space. A few years ago, a peephole and doorbell were installed at the front door, allowing it to remain locked. While this might allow the staff to keep an obviously enraged or upset person outside, it does not prevent someone entering the facility from causing harm after being let in. Also, the act of letting someone in the door exposes that employee to physical harm. With the

abrupt changes in sentencing laws in California this year, individuals who would have in the past been in prison or jail are free on probation. This will bring a different type of criminal clientele to Probation in both the Mammoth and Bridgeport offices. The Grand Jurors noted that Probation might now have a heightened need to revamp office security.

When the new courthouse was built in Mammoth a few years ago, the state architectural and construction teams designed a small area on the second floor to be used to hold prisoners who needed to make court appearances. Once the facility was completed, however, Sheriff's Department staff quickly found that the area had been poorly designed. Consequently, the space remains largely unused, and prisoners continue to be seated in the open courtrooms, under jail staff and bailiff guard. The issue was discussed at the time of the building completion, but seemingly has not been reviewed since.

FINDINGS

F1: Creating a relief cook position for the jail would avoid the unnecessary expenditure of overtime to cover vacation time usage, as well as any potential illness/injury absences. Also at issue is the prospect of one employee having to work seven days a week for whatever period of time, which is an unnecessary hardship on that person.

F2: The Bridgeport Probation office still has an open lobby space that does not help protect the staff from the potential of harm, given the potential created by a criminal clientele. The space also has uncontrolled access to the rest of the office space.

F3: The Mammoth courthouse prisoner holding facility is unused because of poor design.

RECOMMENDATIONS

R1: While budget constraints are a fact of life for many aspects of Mono County government, the Grand Jury once again recommends the creation of a relief jail cook position, and the filling of same.

R2: Again, budget is always the issue, but Mono County should strongly consider finding the funding to construct at the Bridgeport Probation office a counter/partition to create a barrier to the actual workspaces, and to secure the top of it with appropriately tempered glass and other materials. Also, the Mammoth Probation office's security measures should be reassessed to determine if they need to be upgraded as well.

R3: The Sheriff's Department should again approach the Judicial Council and any other participating agency to speak again about fixes that could be made to the prisoner holding facility in the Mammoth Courthouse to make it useable.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

Sheriff-Coroner Ingrid Braun; Findings and Recommendations #1 and #3

Chief of Probation Karin Humiston, Findings and Recommendations #2

The interim (or newly hired) Mono County CAO or his/her designee, Findings and Recommendations #1, #2 and #3

APPENDIX

CGJA Inspection Form

INSPECTION FORM

Please fill out those sections that apply to the facility you are inspecting

Facility Name: <i>Alameda County Jail</i>	Inspection Date: <i>April 7, 2015</i>
Facility Capacity: <i>48</i>	Last Inspection Date: <i>Grand Jury 2013-14</i>
Address: <i>49 Bryant St. PO Box 1616 Bridgeport CA 93517</i>	Telephone Number: <i>(760) 932-7544</i> FAX Number: <i>(760) 932-7435</i>
Facility Administrator: <i>Lt. Mike Boosner</i>	Staff Interviewed: <i>redacted</i>
Type of Facility: Jail <input checked="" type="checkbox"/> Lockup/Temporary Holding <input type="checkbox"/> Court Holding <input type="checkbox"/> Juvenile Hall <input type="checkbox"/> Juvenile Camp <input type="checkbox"/> Other <input type="checkbox"/>	
Committee Inspection Team Members: <i>redacted</i>	
Findings and Recommendations: <div style="text-align: center; font-size: 1.2em;"><i>see Grand Jury Report</i></div>	

AREA INSPECTED/REVIEWED (Please Check)		
Quality of Life	Programs	Persons Interviewed
<input checked="" type="checkbox"/> Physical Plant	<input type="checkbox"/> Educational	<input type="checkbox"/> Inmates ⁴
<input checked="" type="checkbox"/> Meals/Nutrition	<input checked="" type="checkbox"/> Vocational	<input checked="" type="checkbox"/> Facility Manager
<input checked="" type="checkbox"/> Mental Health	<input type="checkbox"/> Community Services	<input type="checkbox"/> Medical
<input checked="" type="checkbox"/> Physical/Dental Health	<input checked="" type="checkbox"/> Domestic Violence	<input type="checkbox"/> School Staff
<input checked="" type="checkbox"/> Religious Services	<input type="checkbox"/> Victim/Gang Awareness	<input type="checkbox"/> Mental Health Staff
<input checked="" type="checkbox"/> Visiting	<input checked="" type="checkbox"/> Substance Abuse	<input checked="" type="checkbox"/> Line Staff
<input checked="" type="checkbox"/> Volunteer Involvement	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Food Services Staff
<input type="checkbox"/> Other		<input checked="" type="checkbox"/> Other Sheriff Braun

GENERAL INFORMATION

What is the capacity of the facility?

48 - currently 19 inmates

Has the facility exceeded capacity since the last inspection?

no, haven't for several years. If happens

What is the inmate classification system? Describe

Use current state system, asking segregation, medical and psychological questions at intake. Generally looking at: past criminal behavior, past custody behavior, Sex offender status, male/female

Since the last inspection indicate the following:

- Number of suicides 0
- Number of attempted suicides 0
- Number of deaths from other causes 0
- Number of escapes 0

Date of last fire/emergency drill will do one in June

Alarm system tested twice a year by the contract company.
General emergency drill scheduled in June of every year.

⁴ The generic term inmate is defined as someone who has been confined to an institution, either adult or juvenile.

INDIVIDUAL CELLS/ROOMS

Condition of walls: good - inmates required to keep own areas clean and in good repair

Personal possessions allowed in cell/room (Art, Books, etc.):

Religious items, yes Non-religious
Art on walls, yes
Graffiti present: none

Ample bedding: yes

LOCAL INSPECTIONS

Fire Inspection Conducted: YES/NO - Date: every other year, scheduled for September
Medical/Mental Health: YES/NO - Date: every other year, scheduled for September
Environmental Health: YES/NO - Date: every other year, scheduled for September
Nutritional Health: YES/NO - Date: annually - contract with qualified nutritionist who reviews menu/ingredients for required standards - menu is posted
Corrections Standards Authority: YES/NO - Date: twice a year, training and plant inspection each a separate inspection
Other (Describe): YES/NO - Date:

STAFFING

Is there enough staff to monitor inmates?

yes - 3 supervisors and 18 staff - Public Service Officers who are both jailers and dispatchers by training

Does staff communicate in language that an inmate can understand?

yes, several speak Spanish - 7 staff members - phone translation service available for other languages

Diversity of staff:

appropriate for area population diversity

Impression of staff/inmate interactions:

appropriate

Searches of all areas occupied by or accessible to inmates done weekly, but randomly

CONDITION OF GROUNDS (Lawns, Recreation Area, Blacktop, Asphalt, Other)

excellent

EXTERIOR OF BUILDING(S) (general condition, paint, roof, drains/gutters, other)

well kept - minor concrete repair in exercise yard scheduled for summer when weather is warm - money available to pay for it

INTERIOR OF BUILDING(S) (walls, paint, floors, drains, plumbing fixtures working, air vents, windows)

well kept
After a water pipe failure, fire system changed to chemical suppressant
Are cleaning fluids and chemicals labeled and safely stored?

yes

Weapons locker present:

yes - several

Recreation/sports equipment:

handball only for recreation/books, cable TV for inside

Are the hallways clear, are doors propped open or closed?

halls clear; door security maintained

Holding areas (cells/rooms) - [if present], is there access to drinking water and toilet?

yes

Are there individual cells/rooms, or dormitories:

both

Beds - Type of bed and is it off the floor?

metal racks/yes New sanitizable mattress pads have integrated pillows, saving laundry time and replacement money

Adequate lighting:

yes

Temperature:

comfortable

ORIENTATION OF INMATES

Are inmates oriented to rules and procedures?

yes

Are rules and grievance procedures posted?

yes

Are rules and grievance procedures understood by inmates?

yes

Inmates interviewed? *no* Number interviewed: _____

Comments:

MEALS/NUTRITION

The kitchen area – Is it clean? Are knives and chemicals locked?

yes

Have the inmates working in the kitchen been trained?

yes

Have the inmates had a medical clearance/review before assignment?

yes

Are meals served in the cell, dayroom or at a central cafeteria?

dayroom or cell, depending

Are inmates permitted to converse during meals?

yes

Length of time allowed for eating?

30 minutes (law only requires 15 minutes)

PERSONAL APPEARANCE OF INMATES

What is the appearance of inmates (dirty, unkempt, well groomed, etc.)?

clean

Showers – frequency, privacy, maintained, supervised by staff?

Allowed at will, but not at night unless on disciplinary lockdown.
Problem inmates released individually to shower after other inmates
locked down for the night.

meal cost approximately
50¢ per meal per
inmate

Any there any reported assaults by inmates on inmates?

inmate on inmate = 12 to 15 ; normal number for Mono Co
inmate on staff = 0

Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)?

good - appropriate clothing available for work details

PROGRAMS

Exercise is it inside or out? How frequently is it offered? How much time is each inmate offered? Do men get more exercise time than the women?

minimum 3 hours a week offered. More in summer during good weather.
Are there clergy available to inmates upon request? Is there access to religious services?

Based on the schedules of the clergy or volunteers. Several churches/
groups in county do come to facility to offer services
Are anger management and other applicable programs available?

Yes, through County Behavioral Health once a week, plus telemedicine
capabilities with Psychiatrist from UCLA Medical Center
Are medical services available? How frequently is medical staff onsite? How long do
inmates wait to be seen? Is a physician available by phone or come onsite?

Physician Assistant visits daily. Bridgeport Medical Clinic and Mono County Paramedics
also available. No waiting issues. Prescription medication costs average \$179/day/inmate

Are mental health services available? How frequently is mental health staff onsite? How
long do inmates wait to be seen?

Yes - several times weekly for groups and individual. Includes AA and NA.
No waiting issues

Are vocational classes available? If so, what types, cooking, gardening, painting,
computers, etc.?

no

Is there a program to involve community volunteers?

yes, limited to local clergy and AA/NA sponsors

Is there a work program: yes - Wash County vehicles and detail them; lawn/gardening
services at County buildings, parks and cemeteries. Shovel out/clear fire hydrants
in heavy snow years. Available to both male/female inmates if qualify.

Other:

Also available for those unable/uninterested in physical work are envelope
stuffing and other mass mailing chores for Tourism and other departments

DISCIPLINE OF INMATES

How often is discipline enacted? What is the range of discipline options?

When necessary. Handson, Taser, pepper ball, lethal firearm if necessary.

Inmates fighting or acting inappropriately can be pulled off of work
details or have other privileges taken away.

GRIEVANCES

What are the most common types of grievances filed by inmates? Is there a record kept based on type and number?

Depends on inmates; knowledge of system. Only 2 or 3 in past year.
State inspectors read all of them as must be in writing.

TELEPHONE

Do inmates have access to telephones?

yes, scheduled. Inmates pay for own phone cards.

CORRESPONDENCE

Is there limited free postage for inmates without money?

yes

Incoming/outgoing – are inmates aware that mail can be read?

yes

Confidential correspondence – letter to attorneys, legislators, BSCC, etc., How is it handled? Hand deliver all local ones; Sacramento addresses

VISITING

Is there adequate space, convenient times or accommodations to family's work schedule, etc.,

yes

Are there provisions for special visits with attorneys/clergy?

yes

Does staff supervise visits?

Via camera/audio

Do all inmates have access to visiting? – If not give reasons:

Yes, unless domestic violence or other inappropriate behavior occurs during

EDUCATIONAL PROGRAM

College level/high school level/other:

none at this time

Name of school district providing educational services:

Mono County Office of Education currently does not have money or staff to provide a program.

Teachers – number of full-time, number of substitutes:

N/A

Number of inmates in educational program:

N/A

Atmosphere of classroom:

Department working on grant funding to convert old Emergency Operations center to class/meeting room to be ready when program returns.
Are there adequate supplies (books, paper, computers, etc.)?

N/A

Activities and coursework assigned by teachers?

N/A

Relationship between educational program staff and facility staff:

N/A

Juveniles in Adult Facility

What is the proximity to adult inmates?

no juveniles enter this facility - if inmate lies about age, is removed from building as quickly as possible and turned over to Juvenile Probation

Is staff available to supervise juveniles?

N/A

Is there constant auditory access to staff?

N/A

Is the juvenile provided a snack if requested?

N/A

Is there access to toilets and washing facilities?

N/A

Is there access to drinking fountains or water?

N/A

Are there provisions to provide clothing or blankets to assure comfort?

N/A

CONDITIONS OF SECURE DETENTION OUTSIDE A LOCKED ENCLOSURE (e.g., CUFFING RAIL)

Is there a contact with other juveniles?

N/A

Is there constant supervision by staff?

N/A

Any timed intervals of supervision? What are the time limits?

N/A

Is there access to toilet and washing facilities?

N/A

Is there access to drinking fountain?

N/A

CONDITIONS OF NON-SECURE DETENTION

Is there constant supervision?

N/A

Are males and females in same room?

N/A



MONO COUNTY
SHERIFF
911

P.O. BOX 616 • 49 BRYANT STREET • BRIDGEPORT, CA 93517 • (760) 932-7549 • WWW.MONOSHERIFF.ORG

Ingrid Braun
Sheriff/Coroner

MONO COUNTY SHERIFF'S OFFICE **Michael Moriarty**
Undersheriff

August 10, 2015

Honorable Judge Stan Eller
Presiding Judge, Mono County Superior Court
100 Thompson Way
Post Office Box 1037
Mammoth Lakes, California 93546

Re: Response to the Mono County Grand Jury 2014-2015 Report, Jail Inspection

Dear Judge Eller:

I am writing in response to the Mono County Grand Jury 2014-2015 Report, relating to the examination of the Mono County Jail. The Grand Jury requested the Sheriff's Office respond to Findings and Recommendations 1 and 3. I will respond to each Finding and Recommendation separately.

Findings and Recommendations

Finding 1: Creating a relief cook position for the jail would avoid the unnecessary expenditure of overtime to cover vacation time usage, as well as any potential illness/injury absences. Also at issue is the prospect of one employee having to work seven days a week for whatever period of time, which is an unnecessary hardship on that person.

Recommendation 1: While budget constraints are a fact of life for many aspects of Mono County government, the Grand Jury once again recommends the creation of a relief jail cook position, and the filling of same.

Sheriff's Response: I agree with the Finding. The recommendation has not yet been implemented, but the Sheriff's Office will do what it can to request and facilitate implementation during the 2015-16 fiscal year. Specifically, the Sheriff's Office will request the Board of Supervisors' creation of an additional jail cook position, either full or part time, to relieve the burden on the two current jail cooks.

Re: Response to the Mono County Grand Jury 2014-2015 Report, Jail Inspection

Finding 3: The Mammoth courthouse prisoner holding facility is unused because of poor design. Recommendation 3: The Sheriff's Department should approach the Judicial Council and any other participating agency to speak again about fixes that could be made to the prisoner holding facility in the Mammoth Courthouse to make it useable.

Sheriff's Response: I agree with the Finding. The recommendation has not yet been implemented but will be implemented in the 2015-16 fiscal year. Specifically, the Sheriff's Office will engage in a discussion with the Judicial Council to determine how the Mammoth Courthouse prisoner holding facility could be improved.

Respectfully submitted,



Ingrid Braun
Sheriff-Coroner



MONO COUNTY
SHERIFF 911

P.O. BOX 616 • 49 BRYANT STREET • BRIDGEPORT, CA 93517 • (760) 932-7549 • WWW.MONOSHERIFF.ORG

Ingrid Braun
Sheriff/Coroner

MONO COUNTY SHERIFF'S OFFICE

Michael Moriarty
Undersheriff

August 10, 2015

Honorable Judge Stan Eller
Presiding Judge, Mono County Superior Court
100 Thompson Way
Post Office Box 1037
Mammoth Lakes, California 93546

Re: Response to the Mono County Grand Jury 2014-2015 Report, Case No. 01

Dear Judge Eller:

I am writing in response to the Mono County Grand Jury 2014-2015 Report, Case No. 01, relating to an anonymous complaint regarding a January 2013 investigation by the Sheriff's Office in the community of Chalfant.

Findings

The Grand Jury concluded that the issue had been appropriately investigated and resolved by the Sheriff's Department. The vague allegations contained in the complaint and the lack of attribution did not give the Grand Jury any sense that the complaint needed to be pursued further, and the Jury voted to close the investigation.

Recommendations

None stated.

Sheriff's Response: I agree with the finding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ingrid Braun".

Ingrid Braun
Sheriff-Coroner



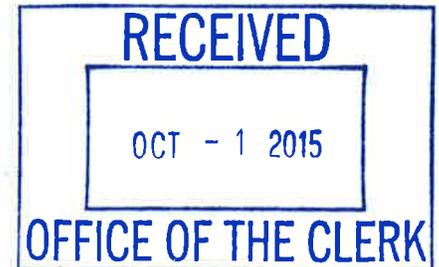
**Office of the Assessor
COUNTY OF MONO**

P.O. BOX 456, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5510 FAX (760) 932-5511

**Barry Beck
Assessor**

September 29, 2015

Honorable Judge Stan Eller
Presiding Judge, Mono County Superior Court
100 Thompson Way
Post Office Box 1037
Mammoth Lakes, California 93546



Re: Assessor's response to the Mono County Grand Jury 2014-2015 Report, Case Number 05

Dear Judge Eller:

Please find below the Assessor's response to Mono County Grand Jury 2014-2015 Report, Case Number 05, and the various findings and recommendations.

Finding One:

The Assessor strongly disagrees with the finding that there "is a clear picture of dysfunction within the Assessor's Office." Admittedly there are personnel issues which predate the term of the current assessor, and some of these issues may have been magnified by events surrounding the 2014 election, but overall the Assessor's Office is running at an increased capacity as evidenced by the results of the 2015 roll close. These results will be discussed in more detail in response to Finding Two.

Finding Two:

The Assessor strongly disagrees that "...the current number of employees in the Assessor's Office is too small to support the workload in a timely and accurate manner" and that "...without expert and independent appraisers, the County, Town of Mammoth Lakes and all special districts will lose revenue in the assessment of large and difficult properties."

The culmination of the year's work for the Assessor's Office is the close or turnover of the assessment roll. The close of the 2015 assessment roll was completed 10 days prior to the deadline, and was, for the first time in memory, 100% complete.

In addition, the staff added 900+ mining claims to the assessment roll (the mining claims have not been assessed in the past, but are required to be assessed as they are not exempt), participated in e-file for our Business Property Statements (this is the 1st year we have used this system, and our participation rate was over 42%, which is an excellent first year percentage of participation), resolved 135 assessment appeals (including a large number that dated all the way back to 2007), processed 36 Calamity Claims for the victims of the Round Fire, and as of today, have little to no backlog of transfers, value reviews, new construction, new maps, or other assessment work pending.

The Assessor acknowledges that in the past there has been a culture of low productivity and inefficient work practices, but we have made great strides in creating a new culture of efficiency and productivity through such measures as instituting productivity standards for the appraisal staff and adopting improved workflows.

In regard to "expert and independent appraisers", the Assessor's Office currently maintains a contract with an independent appraisal firm that specializes in ski area appraisal, a consultant that specializes in geothermal valuation (for the appeals involving Ormat), and an attorney whose specialty is property tax matters (and as a statement to his expertise, recently prevailed over Chevron in an assessment matter for the Kern County Assessor's Office).

The County, Town of Mammoth Lakes, and the various special districts (including the school districts) are well represented in the appraisal of "...large and difficult properties" both through these outside experts, and from the knowledge and expertise of the current staff.

Finding Three:

There were "...allegations that current and past assessors illegally accessed other employee's computers". The only 'finding' that can be surmised from Finding Three is that there is no evidence to support the claim, and the Assessor agrees that the evidence is nonexistent. The current assessor has not accessed the computers of any current employees, or any past employees other than to preserve/access institutional memory/knowledge/information.

The Assessor acknowledges that past assessors may have accessed employee email on employee issued computers, but this practice has not been exercised by the current assessor.

Finding Four:

“Members of the Mono County Assessor’s Office were told that the report from the County investigation would be released to them but that has not been done.” The Assessor disagrees with this finding. The Assessor is not aware of any such promise made, and in fact the Assessor has not seen the report either, nor was it ever communicated to the Assessor that the report would be made available to the Assessor or the Assessor’s staff.

Recommendation One:

The Assessor endorses the recommendation that the Mono County Board of Supervisors more closely monitor morale of the Assessor’s staff. However, that decision lies with the Board of Supervisors as the Assessor has no authority to compel the Supervisors to follow this recommendation. Overall, the morale is much improved now that all employees are held to the same standards and expectations, and we would welcome increased interaction between the Mono County Supervisors and the Assessor’s Office staff.

The mediation process continues, and is already producing tangible results. The expectation is that as the process continues, those that have been slower to adapt to the changes that were made to increase our efficiency and productivity will continue to evolve and adapt into a cohesive, efficient, and productive staff.

Recommendation Two:

Recommendation Two (the portion thereof that relates directly to the Assessor) will not be implemented as it is not warranted or reasonable. The Assessor acknowledges the “...past history of problems...”, and has taken steps to ensure that these problems do not persist into the future. The mitigation steps include, but are not limited to the following: Mediation, facilitation, and executive coaching. The assessor is committed to provide quality leadership, improved productivity, consistent standards, and an emotionally and physically healthy work environment.

As to the “...timeliness and accuracy of the critical work of the Assessor’s Office...”, we are under the scrutiny of the California State Board of Equalization, who, incidentally, will be in the Mono County Assessor’s Office

for 4 weeks in September and October for a survey of our workload, accuracy, methods, procedures, staffing, and compliance of laws, statutes, mandates, and the Revenue and Taxation Code.

We are confident that the Board of Equalization report will verify the professionalism, compliance, and accuracy of our recently completed roll turnover, and of our work going forward. This survey is not in response to any particular event; every assessor's office in California is subject to a survey/audit every 5 years. 2015 is our regularly scheduled survey/audit year.

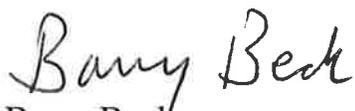
Recommendation Three:

The recommendation has not yet been implemented, but likely will be in the future. The Assessor has an Assistant Assessor position funded in the approved budget. The Assessor is waiting for Mono County to hire a Human Resources Director to help with the recruitment of the Assistant Assessor position. It seems likely that the Human Resources Director will be hired in the next 6 months, at which time the final decision can be made as to whether to proceed with the recruitment and hiring of an Assistant Assessor.

Recommendation Four:

Recommendation Four is beyond the scope of duty and authority of the Mono County Assessor. Therefore, the Assessor is not in a position to either implement or not implement the recommendation.

Respectfully submitted,

A handwritten signature in black ink that reads "Barry Beck". The signature is written in a cursive, slightly slanted style.

Barry Beck

Mono County Assessor



BOARD OF SUPERVISORS COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5538 • FAX (760) 932-5531

Bob Musil
Clerk of the Board
bmusil@mono.ca.gov

Shannon Kendall
Assistant Clerk of the Board
skendall@mono.ca.gov

October 13, 2015

Honorable Judge Stanley Eller
Presiding Judge of the Superior Court
100 Thompsons Way
P.O. Box 1037
Mammoth Lakes, California 93546

Re: Response to the Mono County 2014-2015 Grand Jury Report

Dear Judge Eller:

Please consider this letter and Attachment A as the official response to the 2014–2015 Mono County Grand Jury Report and place this document on file as the Mono County Board of Supervisors' response to the Grand Jury Report. Attachment A has specific responses to the items identified in the 2014-2015 Report. As elected department heads, the Sheriff and Assessor have responded separately to the findings and recommendations affecting their departments. The Board appreciates the Sheriff's and the Assessor's responses.

The Board and entire County staff appreciate the critical role the Grand Jury provides to the community and the County organization in ensuring the best use of scarce resources. Openness, transparency and accountability are crucial to our democracy. We thank the members of the Grand Jury for their public service and encourage the Court to ensure the broadest representation from across all communities of Mono County.

Sincerely,

Timothy E. Fesko, Chair
Mono County Board of Supervisors

Enclosure: Attachment A: 2014-2015 Mono County Grand Jury Responses



Case #03 (Animal Control Services)

The Grand Jury requested that the Board of Supervisors respond to Findings #1 and #3 and Recommendations #1 and #2.

Findings:

1. County Service Level. AC staffing level in the County is about the same as existed in 1984 when the County was also responsible for the TOML. That level is appropriate for the jurisdiction outside of TOML. The County Health Officer provides all required rabies control services. The County budget supports an appropriate level of AC.

Board Response: the Board agrees with the finding.

3. Record Keeping. Records for complaints, licenses, and vaccinations are maintained as hand written records at both the County and TOML levels. Today, it is difficult to obtain data similar to that cited by County Animal Control Director in 1985.

Board Response: the Board agrees with the finding.

Recommendations:

1. County/TOML Service Level. Although the County is not required to provide AC services within the TOML, the Code does not preclude it. The TOML should consider providing an adequate budget for contracting with the County for AC services.

Board Response: It is not within the County's power to implement this recommendation unless or until the TOML approaches the County regarding contracting for AC services. If and when that occurs, then the Board will duly consider it.

2. AC Record Keeping. The County and TOML should implement common AC software for record keeping.

Board Response: It is not entirely clear what is being recommended – that the County and the TOML independently use the same software program, or that they somehow manage their records in a common software database? If the former, then it does not appear that implementation of this recommendation requires any action by the County because the TOML could simply start using the same AC software that the County currently uses. The County sees no reason to change its own software. With respect to the latter, if the County contracted with the TOML to provide AC services at a future date, then the County would use the same software for such services within the TOML as it otherwise uses in the rest of the County. .

Case #05 (County Assessor's Office)

The Grand Jury requested that the Board of Supervisors respond to findings and recommendations 1-4.

Findings:



1. The MCGJ believes there is a clear picture of dysfunction within the Assessor's Office. The office appears to be divided into two "camps" of employees, with various and conflicting points of view among all involved.

Board Response: the Board agrees with the finding, although the situation has improved since the Grand Jury conducted its investigation.

2. The MCGJ believes the current number of employees in the Assessor's office is too small to support the workload in a timely and accurate manner. In addition, the MCGJ believes that without expert and independent appraisers, the County, Town of Mammoth Lakes and all special districts will lose revenue in the assessment of large and difficult properties.

Board Response: the Board agrees in part and disagrees in part with the finding. The Board agrees that expert and independent appraisers are valuable and, as is past years, the Board has provided funding for contracts with such appraisers. The Board understands from the Assessor's response that he intends to continue utilizing such appraisers. Assuming that occurs, the Board disagrees that the number of employees in the Assessor's office is too small to support the workload. The Board is informed and believes that the current staff of Assessor's employees is keeping up with the office workload, as described in the Assessor's response.

3. In spite of repeated allegations that current and past Assessor's illegally accessed other employee's computers, the MCGJ was unable to find hard evidence supporting the complaint.

Board Response: the Board agrees the finding.

4. Members of the MCAO were told that the report from the County investigation would be released to them but that has not been done.

Board Response: the Board disagrees the finding. The report does not state who allegedly told members of the MCAO that the report would be released to them but the Board is not aware of any County representative telling them that.

Recommendations:

1. The MCGJ believes that the Mono County Board of Supervisors should more closely monitor the morale of the MCAO employees. In addition, the MCGJ believes that the already initiated mediation procedure is a potentially useful one that should be carried out to completion.

Board Response: the recommendation has been implemented.

2. The MCGJ believes that given the current state and past history of problems within the MCAO, the Mono County Board of Supervisors should appoint an independent party to oversee office personnel. The MCGJ feels this is necessary to insure that the timeliness and accuracy of the critical work of the Assessor's office is not jeopardized.

Board Response: the recommendation will not be implemented because it is not warranted at this time. The Board is not aware of any current problem with "the timeliness and accuracy" of work in the Assessor's office. With respect to other "problems within the MCAO" discussed in the report, a process of mediation, facilitation, and executive coaching is currently under way as noted above and in the Assessor's response. The Board wishes to give that process a chance to succeed before considering other options (with their associated costs) such as the "independent party" recommended by the MCGJ.



3. The MCGJ believes that additional appraiser staff, including experienced appraisers with knowledge of large and difficult county properties, should be hired to insure that the mission of the Assessor's Office is carried out in a timely and accurate manner.

Board Response: the recommendation has not yet been implemented but may be in this fiscal year. As noted in the Assessor's response, an Assistant Assessor position has been funded and may be filled during this fiscal year.

4. The MCGJ believes the County investigation report should be released to the staff. If this report cannot be released for intractable legal reasons, a legally defensible general summary, findings, and recommendations should be made available. If that is not possible, involved employees should receive a written explanation detailing the reasons for the non-release, and any further recourse they may have.

Board Response: the latter part of the recommendation has been implemented inasmuch as the employees, through their Union representative, were provided with a written explanation that the report would not be released is because it is attorney work product privileged. Like many other employers, the County does not generally release investigative reports into personnel complaints. There are sound policy and risk management reasons for not releasing such documents. Furthermore, under applicable laws such as the Public Records Act, if the County provided a copy of the report to one group of interested parties, such as "involved employees," that disclosure would waive the privilege as to anyone else and, in effect, would make the report a disclosable public record.

Statutory Examination of the Mono County Jail, Bridgeport

Note: although the grand jury report requests responses from the Chief Probation Officer and the Interim CAO, as well as the Sheriff, we are informed by County Counsel that the Board of Supervisors and the Sheriff are actually the only parties responsible for responding to such findings and recommendations per Penal Code section 933.

Findings:

1. Creating a relief cook position for the jail would avoid the unnecessary expenditure of overtime to cover vacation time usage, as well as any potential illness/injury absences. Also at issue is the prospect of one employee having to work seven days a week for whatever period of time, which is an unnecessary hardship on that person.

Board Response: the Board disagrees with the finding. Because such injury/illness absences are, as the finding states, merely a "potential" event, it appears speculative whether the ongoing expense of funding an additional relief cook position would in fact be less expensive than the occasional overtime expenditure. Also speculative (and subjective) is whether the additional work for a period of time would be viewed by a given employee as a "hardship." Some employees might welcome the opportunity to earn substantial overtime during a temporary period while covering for an absent employee.

2. The Bridgeport Probation office still has an open lobby space that does not help protect the staff from the potential of harm, given the potential created by a criminal clientele. The space also has uncontrolled access to the rest of the office space.

Board Response: the Board agrees that the Bridgeport Probation office has an open lobby space.

3. The Mammoth courthouse prisoner holding facility is unused because of poor design.



Board Response: the Board agrees with the finding.

Recommendations:

1. While budget constraints are a fact of life for many aspects of Mono County government, the Grand Jury once again recommends the creation of a relief jail cook position, and the filling of same.

Board Response: The recommendation will not be implemented because it is not warranted for reasons set forth in the Board's response to finding #1.

2. Again, budget is always the issue, but Mono County should strongly consider finding the funding to construct at the Bridgeport Probation office a counter/partition to create a barrier to the actual workplaces, and to secure the top of it with appropriately tempered glass and other materials. Also, the Mammoth Probation office's security measures should be reassessed to determine if they need to be upgraded as well.

Board Response: The basic concept of the recommendation is currently being implemented, in-house, by Public Works staff and should be completed by the end of this fiscal year.

3. The Sheriff's Department should again approach the Judicial Council and any other participating agency to speak again about fixes that could be made to the prisoner holding facility in the Mammoth Courthouse to make it useable.

Board Response: The recommendation appears directed to the Sheriff, but we understand from the Sheriff's response that she intends to implement it and we support her doing so.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

Departments: Board of Supervisors

TIME REQUIRED	1 hour (15 minute presentation; 45 minute discussion)	PERSONS APPEARING BEFORE THE BOARD	Stacy Corless
SUBJECT	Strategic Plan 2015-16 Priorities and Timeline		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation of 2015-16 strategic plan priorities and activities, developed from Board of Supervisors feedback (following the July 7 strategic plan workshop) and final budget approval.

RECOMMENDED ACTION:

Approve 2015-16 strategic plan priorities and activities.

FISCAL IMPACT:

CONTACT NAME: Helen Nunn

PHONE/EMAIL: x5534 / hnunn@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
***PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING***

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[Strategic Plan Staff Report](#)

[Strategic Plan Board-Adopted Framework](#)

[Strategic Plan Timeline](#)

[Strategic Plan Priorities](#)

History

Time	Who	Approval
9/1/2015 1:05 PM	County Administrative Office	Yes
9/1/2015 12:03 PM	County Counsel	Yes
10/6/2015 3:53 PM	Finance	Yes



Larry Johnston~District One Fred Stump~ District Two Tim Alpers ~ District Three
Tim Fesko ~ District Four Stacy Corless ~ District Five

BOARD OF SUPERVISORS COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5538 • FAX (760) 932-5531

Bob Musil, Clerk of the Board

Date: 10/13/15

To: Honorable Board of Supervisors

Subject: Strategic Plan 2015-2016 Priorities and Annual Timeline

Submitted by: Supervisor Stacy Corless and Strategic Planning Team (Accountant/Plan Ambassador Megan Mahaffey, Interim CAO Lynda Salcido, Finance Director Leslie Chapman, Behavioral Health Director Robin Roberts, Economic Development Director Alicia Vennos, IT Director Nate Greenberg)

Recommended Action: Approve Mono County Strategic Plan Timeline and 2015-2016 Priorities

Fiscal Impact: None at this time.

Discussion: Today we are seeking approval to move forward with the Mono County Strategic Plan by adopting an implementation timeline and priorities for FY 2015-2016.

In January of this year, your Board approved the County's first-ever Strategic Plan Framework, identifying a vision, mission, values and eight strategic directions to guide and inform all County activities. The CAO then sought public input for project ideas for the Mono County Strategic Plan at County RPACs, service organizations, and partner agency meetings. In May, your Board held a special meeting to conduct a workshop to further develop a set of priorities for 2015-2016. Following a Mono County Strategic Plan update with the Board, Town Hall budget meetings, including a Strategic Plan update, were conducted throughout the County. After the budget was adopted, the Strategic Planning Team worked to develop a set of priorities for the fiscal year that reflect both the adopted budget and the strategic planning input from the board and its constituents.

Adopting the Mono County Strategic Plan timeline and 2015-2016 priorities is the first step in implementing the adopted framework to align our work with the eight strategic directions and create the "Best Mono Imaginable."

Attachments:

Mono County Strategic Plan Framework
Mono County Strategic Plan Timeline
Mono County Strategic Plan 2015-2016 Priorities

Vision

Mono County
Outstanding Community Services, Quality of Life Beyond Compare

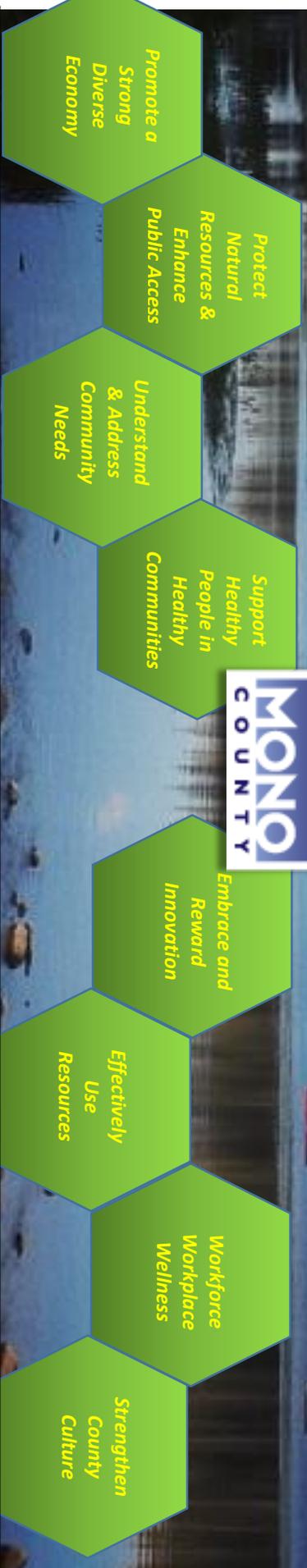
Mission

Mono County's Mission:
To support all our communities by providing superior services while protecting our unique rural environment.

Values

- Customer Service**
We commit to exceptional service by managing the resources entrusted to us with integrity, trust, respect, and accountability.
- Integrity**
We demonstrate our integrity by ensuring our work is performed with consistency, credibility, and confidentiality.
- Excellence**
We strive to achieve the highest standards of excellence: continuously learn, develop, and improve; and take pride in our work.
- Collaboration**
We commit to responsible communication and respectful partnerships to achieve common goals.
- Innovation**
We strive to foster innovation and creative thinking, embrace change and challenge the status quo, listen to all ideas and viewpoints, learn from our successes and mistakes.
- Results Orientation**
We strive to set challenging goals, focus on output, assume responsibility, and constructively solve problems.

Strategic Directions



Best Mono Imaginable

Mono County Strategic Plan Framework - Adopted January 2015

Mono County Strategic Planning Framework includes the following elements:

- Vision – Who we are and the future we intend to create
- Mission – What is our purpose and reason for existing
- Values – What principles we live by
- Strategic Directions – Governing principles that shape all work efforts
- Priorities & Projects – Annual work efforts as defined by mandates and Strategic Directions

Annual Timeline (based on FY):

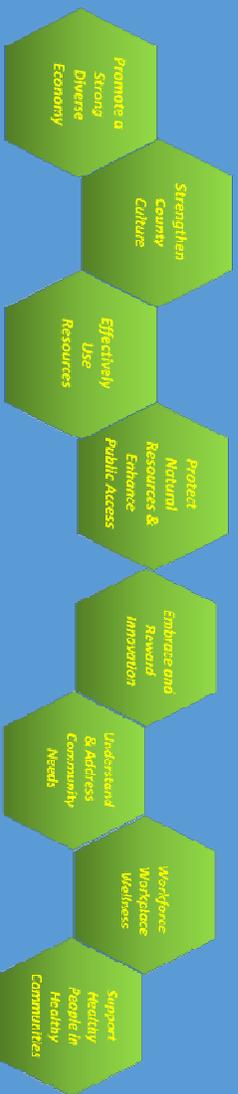
- Mid-Year (January/February): Each Department provides a Board update on the progress made toward current priorities and projects. The Board of Supervisors then conducts a public workshop to identify priority areas for the upcoming Fiscal Year.
- Year End (May/June): Priorities agreed to and incorporated into departmental budget narratives for adoption
- Year Start (July/August): A one-year work plan will be adopted in conjunction with the budget
- Quarterly: Each department reviews and records progress made toward current priorities and projects

Performance Measurement & Accountability:

- Systems will be established to track progress with measurements and metrics (such as inclusion of Strategic Direction alignment in all Staff Reports, and semi-annual reporting of progress on current priorities and projects)

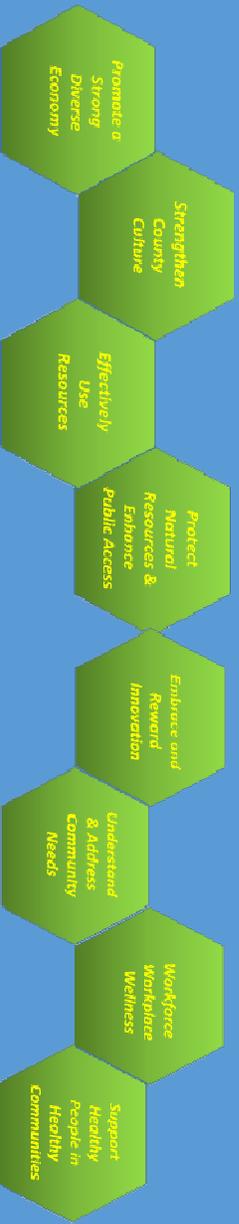
Continuity in Planning:

- Mono County Strategic Plan Framework will be reviewed every five years (or as needed)



Strategic Directions... Identified Priorities with Measured Success.

2015-2016 Priorities		Strategic Direction	Promote a Strong & Diverse Economy	Protect Natural Resources & Enhance Public Access	Understand & Address Community Needs	Support Healthy People in Healthy Communities	Reward Innovation	Effective Use of Resources	Workforce Wellness	Strengthen County Culture
<p>A1. Support local business through retention and expansion</p>	<p>B1. Planning Trails for Communities</p>	<p>C1. Utilize legislative platform to protect rural county priorities</p>	<p>D1. Affordable Care Act integration and implementation</p>	<p>E1. Streamline Business processes and consolidate systems</p>	<p>F1. Collaborate across department/ partner agency /NGO</p>	<p>G1. Improve Human Resources Systems</p>	<p>H1. Implement Strategic Plan</p>			
<p>A11. Support local fisheries</p>	<p>B11. Conway Ranch Planning</p>	<p>C11. Establish Community Advisory Board for Sheriff Department</p>	<p>D11. Increase Emergency Preparedness</p>	<p>E11. Reduce County energy costs and materials consumption</p>	<p>F11. County Facilities Space Planning</p>	<p>G11. Leadership and workforce development/ training and succession planning</p>	<p>H11. Increase cross department socialization and events to bridge the north south gap</p>			
<p>A111. Leverage Digital 395</p>	<p>B111. Protection of Wildlife and Watershed</p>	<p>C111. Increase government transparency and outreach</p>	<p>D111. "Fix it First" Parks and Facilities</p>	<p>E111. Create an environment for employee ideas to be recognized and supported</p>	<p>F111. Solid Waste Planning</p>	<p>G111. Assess workforce health status and promote wellness</p>	<p>H111. Encourage employee participation in community events</p>			



Strategic Directions... Identified Priorities with Measured Success.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

TIME REQUIRED

**PERSONS
APPEARING
BEFORE THE
BOARD**

SUBJECT Closed Session--Human Resources

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, and Lynda Salcido. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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No Attachments Available

History

Time	Who	Approval
9/30/2015 11:49 AM	County Administrative Office	Yes
10/6/2015 11:21 AM	County Counsel	Yes
9/25/2015 11:45 AM	Finance	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

TIME REQUIRED

SUBJECT Closed Session - County Counsel
Performance Evaluation

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
***PRIOR TO 5:00 P.M. ON THE FRIDAY
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History

Time	Who	Approval
10/6/2015 11:23 AM	County Administrative Office	Yes
10/6/2015 11:20 AM	County Counsel	Yes
10/6/2015 11:34 AM	Finance	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

TIME REQUIRED

**PERSONS
APPEARING
BEFORE THE
BOARD**

SUBJECT Closed Session - Public Employment

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYMENT. Government Code section 54957. Title: HR Manager.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
***PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING***

SEND COPIES TO:

MINUTE ORDER REQUESTED:

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ATTACHMENTS:

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No Attachments Available

History

Time

Who

Approval



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

TIME REQUIRED

**PERSONS
APPEARING
BEFORE THE
BOARD**

SUBJECT Closed Session - Public Employment

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYMENT. Government Code section 54957. Title: Risk Manager.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

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No Attachments Available

History

Time	Who	Approval
10/6/2015 4:55 PM	County Administrative Office	Yes
10/6/2015 4:56 PM	County Counsel	Yes
10/6/2015 4:56 PM	Finance	Yes



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE October 13, 2015

TIME REQUIRED

**PERSONS
APPEARING
BEFORE THE
BOARD**

SUBJECT Closed Session - Public Employment

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYMENT. Government Code section 54957. Title: County Administrator.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH
ATTACHMENTS TO THE OFFICE OF
THE COUNTY ADMINISTRATOR
***PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING***

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

[Click to download](#)

No Attachments Available

History

Time

Who

Approval