



To: Bay Area UASI Approval Authority

From: Commander Shawn Sexton

Date: March 14, 2019

Re: Item 4: FY 2018 Training and Exercise Program Update

This item is a follow-up to the November 8, 2018 Approval Authority meeting in which the Board unanimously voted to table the following issue until the March 14, 2019 meeting.

Recommendation: Suggested recommendations for reallocating T/E Program funds include:

1. Reallocate \$5.5M to Management Team to Administer the Training/Exercise Program
2. Reallocate \$5.5M to another jurisdiction to administer the program as long as projects are completed within the prescribed timeframe
3. Expand Yellow Command exercise and reallocate the remaining grant funds to the hubs
4. Reallocate \$5.5M to the hubs and each hub implements their own training/exercise program
5. Other options as approved by a vote of the Approval Authority

Action or Discussion Items:

Determine whether to reallocate grant funds supporting the regional training and exercise program should the Alameda County Board of Supervisors fail to approve the FY 18 UASI MOU at its March 12, 2019 meeting.

Discussion/Description:

- (a) Status of the FY 18 MOU between the City and County of San Francisco (fiscal agent) and the County of Alameda (grant sub-recipient) (Discussion)

Background:

The region's, multi-year, training/exercise program is funded by the Bay Area UASI and managed by the Alameda County Sheriff's Office. At the January 11, 2018 Approval Authority meeting, the board members unanimously voted to approve \$4,901,339 in FY 18 grant funds to support training, exercise, planning, and program support, including the Urban Shield exercise. The direction of the Approval Authority for the regional training/exercise program was incorporated into the language of the FY 18 MOU between Alameda County and San Francisco. The MOU also included approved grant funded projects for other agencies within Alameda County, including: the

“Stop the Bleed, Save a Life” program, Alameda County Alert Unified Emergency Notification System, Medical Needs/Behavior Health Shelter Planning, Regional mass Care and Shelter Equipment Trailers, etc.). This MOU was submitted to Alameda County prior to November 1, 2018 for approval by the Board of Supervisors. To date, the MOU has not been approved and no funds can be expended unless and until it is approved and signed by the Alameda County Board of Supervisors.

Pending Issue:

A similar circumstance occurred with FY 17 UASI funds. The Approval Authority reached consensus and approved funding for the FY 17 Training/ Exercise Program and an MOU was submitted prior to November 1, 2017 for approval by the Alameda County Board of Supervisors.

In March 2018, although the Alameda County Board of Supervisors approved the MOU, they resolved that it was the last time the Urban Shield exercise as “currently constituted” would be approved by the Board. Subsequently, an ad hoc committee was formed to provide recommendations to the Board. Since their first meeting in September 2018, the ad hoc committee met a number of times, culminating in a written report submitted to the Board of Supervisors in February 2019 with 63 recommendations. On February 26, 2019 a hearing was held on these recommendations and the Board voted to adopt all UASI-related items.

It is the position of the Sheriff’s Office that some of the recommendations cannot be satisfied because they violate the grant guidance by usurping the authority of the Approval Authority which is the mandated Urban Area Working Group (UAWG) per page 56 of the FY 18 Notice of Funding Opportunity (NOFO). The Approval Authority’s Charter, in the form of a Master MOU, is on file with DHS/FEMA and is the official designee that oversees the UASI program throughout the region. The Alameda County Board of Supervisors has scheduled another board meeting on March 12 to vote on the MOU as currently written.

Assuming that Alameda County does not accept the MOU as written and/or adds language to the MOU that is contrary to the grant guidance, the Approval Authority should discuss how to reallocate the grant funds to support the regional training and exercise program.

(b) Fiscal Grant Noncompliance Concerns

Alameda County’s failure to approve the MOU puts the regional Training and Exercise Program at risk in several ways.

1. Per the Code of Federal Regulations (CFR) 200.328, the Bay Area UASI fiscal staff is required to monitor and report on program performance. Section (a) states in part that “The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.”

2. Per CFR 200.331 (d), pass-through entities such as Alameda County must also be monitored by the UASI fiscal staff. Staff must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

Based on these regulations, the failure of the Alameda County Board of Supervisors to sign this MOU in a timely fashion has been identified as a deficiency and puts the performance goals of the grant in jeopardy.

(c) Remedies for non-performance

CFR 200.207 (2), (3) and (4) provides for the use of “Specific Conditions” in cases where a subrecipient is deficient in meeting the grant’s terms and conditions:

- (2) When an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award;
- (3) When an applicant or recipient fails to meet expected performance goals as described in §200.210 Information contained in a Federal award; or
- (4) When an applicant or recipient is not otherwise responsible.

Additionally, the fiscal agent may prevent the subrecipient from proceeding to the next phase until receipt of evidence of acceptable performance within a given period of performance is achieved.

At the November 8, 2018 Approval Authority meeting, the Alameda County representative to the Approval Authority was given notice that a failure by the Alameda County Board of Supervisors to sign their MOU by the March 2019 Approval Authority meeting, could result in the withholding of grant funds or any other remedies described above.