

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: June 5, 2008

AGENDA ITEM
D-3
JUNE 11, 2008

CONSIDER ADOPTION OF CELL PHONE USE POLICY

ITEM

Consider adoption of Cell Phone Use Policy [ADOPT RESOLUTION].

BACKGROUND

The State of California has adopted a new law dealing with the use of wireless telephones while driving that goes into effect July 1, 2008. Vehicle Code Section 23123 prohibits the use of a handheld wireless telephone while operating a motor vehicle. Motorists 18 and over may use a "hands-free" device and the law does provide an exception for placing a call to an emergency services agency. The District currently does not have a written cell phone policy.

Staff has prepared the attached draft Cell Phone Use Policy to ensure compliance with the new law. The draft policy as written goes beyond the minimum and states that employees shall not use cell phone/mobile communications devices to place or take calls while operating a motor vehicle, motorized equipment, or conducting other safety sensitive tasks on District business. Once the policy is adopted, staff will proceed to conduct the appropriate training.

RECOMMENDATION

Staff recommends that your Honorable Board adopt the attached Resolution.

ATTACHMENT

Resolution 2008-XXXX with Exhibit "A" – Cell Phone Use Policy

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A CELL PHONE USE POLICY**

WHEREAS, the Nipomo Community Services District (herein "District") does not have a written Cell Phone Use Policy, and

WHEREAS, Staff has determined that the District needs a Cell Phone Use Policy to minimize the likelihood of employee accidents caused by inattention resulting from the use of cell phone/mobile communications devices and to ensure compliance with the State of California Vehicle Code Section 23123, and

WHEREAS, the draft Cell Phone Use Policy has been circulated for employee comment; and

WHEREAS, the Cell Phone Use Policy attached as Exhibit "A" to this Resolution has been reviewed by the Board of Directors of the Nipomo Community Services District.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District, as follows:

1. The policy attached hereto as Exhibit "A" is hereby adopted as the Cell Phone Use Policy of the Nipomo Community Services District.
2. Effective Date. This Resolution and the attached Cell Phone Use Policy shall take effect immediately.

Upon motion of Director _____, seconded by Director _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICT:

the foregoing resolution is hereby passed and adopted this 11th day of June, 2008.

Michael Winn
President of the Board
Nipomo Community Services District

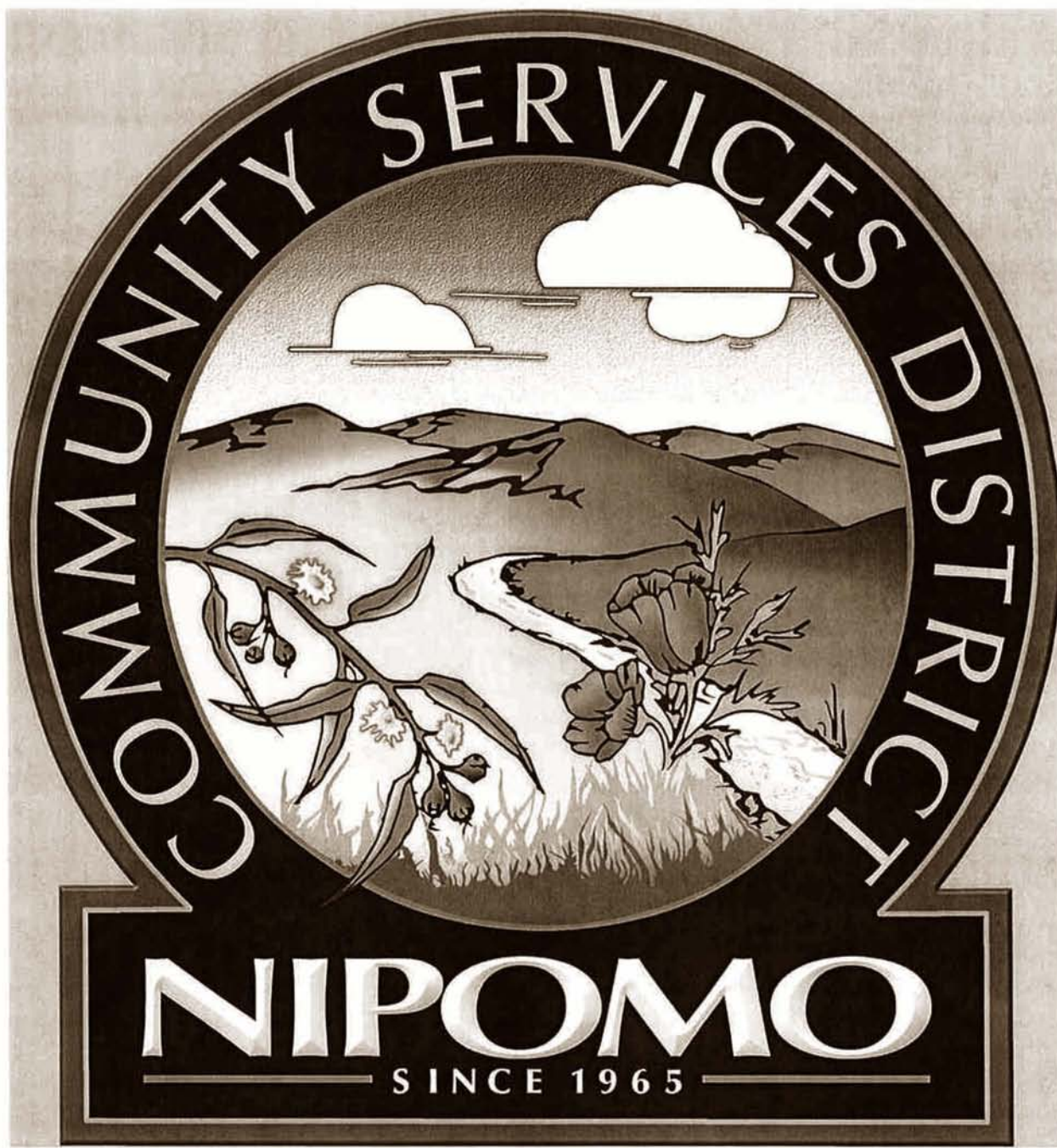
ATTEST:

APPROVED:

Donna K. Johnson
Secretary to the Board

JON S. SEITZ
District Legal Counsel

**NCSD SAFETY POLICIES AND PROCEDURES
CELL PHONE USE POLICY**



NCSD SAFETY POLICIES AND PROCEDURES

CELL PHONE USE POLICY

I. PURPOSE

The purpose of the NCSD CELL PHONE USE POLICY is to minimize likelihood of employee accidents caused by inattention resulting from the use of cell phone/mobile communications devices.

II. APPLICABILITY

This Policy applies to all NCSD employees when driving, operating motorized equipment or conducting other safety sensitive tasks on District business. This policy applies to the use of District issued and personal cell phone/mobile communications devices.

III. POLICY

It is the policy of the Nipomo Community Services District that employees shall not use cell phone/mobile communications devices to place or take calls while operating a motor vehicle, motorized equipment, or conducting other safety sensitive tasks on District business.

IV. RESPONSIBILITY

A. Utility Superintendent and Assistant General Manager shall:

1. Ensure that the CELL PHONE USE POLICY is implemented. The Utility Superintendent and Assistant General Manager have the authority to delegate any or all portions of this Policy to subordinates, but the Superintendent and Assistant General Manager will be held responsible for compliance.
2. Implement the CELL PHONE USE POLICY.

B. Employees shall:

1. Adhere to all aspects of this policy.

C. District Engineer/Safety Officer shall:

1. Update and maintain the CELL PHONE USE POLICY on an annual basis.

V. PROCEDURE

A. Employees are required to pull over to a legal and safe location to answer, place or continue calls when operating a motor vehicle or motorized equipment, even when using a hands-free device.

B. Employees shall not answer, place or continue calls when performing a safety sensitive function such as traffic control, confined space attendant duties or any other tasks where their inattention could potentially create an unsafe condition, even when using a hands-free device.

C. Employees shall allow calls to be answered by voicemail until it is safe to return call.

NCSD SAFETY POLICIES AND PROCEDURES


CELL PHONE USE POLICY

D. The use of text messaging and e-mail features while operating a motor vehicle, motorized equipment, or conducting other safety sensitive tasks on District business is prohibited.

E. The only exception to this policy is for calls placed to 911.

V. TRAINING

The Utility Superintendent and Assistant General Manager shall ensure that all employees receive initial training during New Employee orientation and annual refresher training.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: June 5, 2008

**AGENDA ITEM
D-4
JUNE 11, 2008**

CONSIDER ADOPTION OF FIRE PREVENTION POLICY

ITEM

Consider adoption of Fire Prevention Policy [ADOPT RESOLUTION].

BACKGROUND

Title 8, Section 3221, of the California Code of Regulations requires employers to have an effective fire prevention plan to ensure that employees are adequately trained and informed of the potential fire hazards associated with their work environment. The District currently does not have a written fire prevention policy.

Staff presented a draft policy to the Board on May 14, 2008. The Board appointed an ad hoc committee consisting of Directors Vierheilig and Harrison to work with staff to further develop the policy. Staff met with the ad hoc committee and has prepared the attached Fire Prevention Policy based on input from the committee. Once the policy is adopted, staff will proceed to conduct the appropriate training.

RECOMMENDATION

Staff recommends that your Honorable Board adopt the attached Resolution.

ATTACHMENT

Resolution 2008-XXXX with Exhibit "A" – Fire Prevention Policy

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A FIRE PREVENTION POLICY**

WHEREAS, the Nipomo Community Services District (herein "District") does not have a Fire Prevention Policy, and

WHEREAS, Staff has determined that the District needs a Fire Prevention Policy to ensure that employees are adequately trained and informed of the potential fire hazards associated with their work environment; and

WHEREAS, the draft Fire Prevention Policy has been circulated for employee comment; and

WHEREAS, the Fire Prevention Policy attached as Exhibit "A" to this Resolution has been reviewed by the Board of Directors of the Nipomo Community Services District.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District, as follows:

1. The policy attached hereto as Exhibit "A" is hereby adopted as the Fire Prevention Policy of the Nipomo Community Services District.
2. Effective Date. This Resolution and the attached Fire Prevention Policy shall take effect immediately.

Upon motion of Director _____, seconded by Director _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICT:

the foregoing resolution is hereby passed and adopted this 11th day of June, 2008.

Michael Winn
President of the Board
Nipomo Community Services District

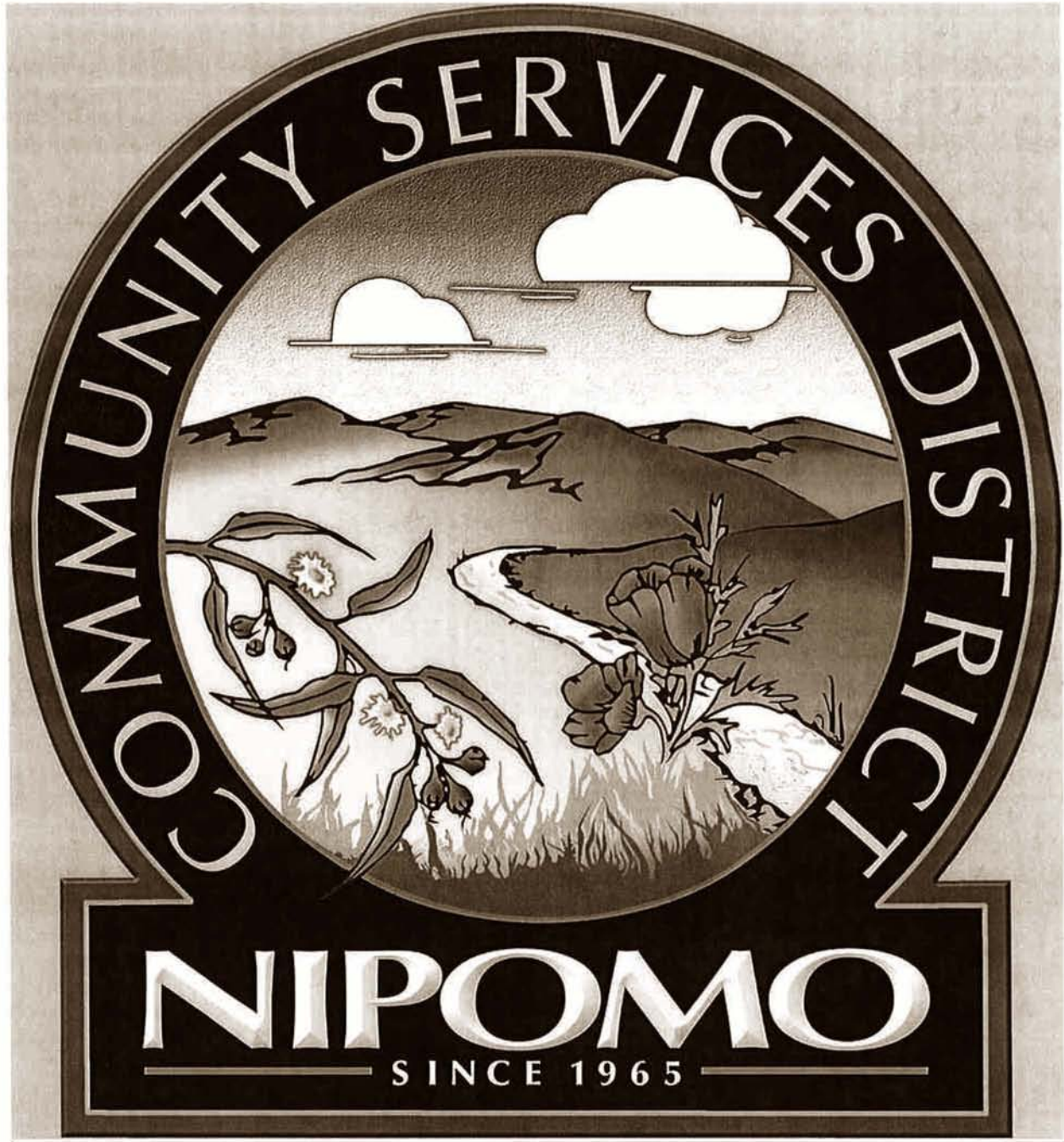
ATTEST:

APPROVED:

Donna K. Johnson
Secretary to the Board

JON S. SEITZ
District Legal Counsel

**NCSD SAFETY POLICIES AND PROCEDURES
FIRE PREVENTION POLICY**



NCSD SAFETY POLICIES AND PROCEDURES

FIRE PREVENTION POLICY

I. PURPOSE

This Policy describes the general requirements of NCSD's Fire Protection Policy to prevent fire in and around property occupied by employees.

II. APPLICABILITY

This Policy applies to all NCSD employees and all NCSD facilities whether owned, rented, or otherwise occupied.

III. POLICY

This Plan is written in accordance with the California Code of Regulations, Title 8, Section 3221, which establishes the elements that are required in the Plan.

IV. RESPONSIBILITY

A. Utility Superintendent and Assistant General Manager shall:

1. Ensure that the FIRE PROTECTION POLICY is implemented. The Utility Superintendent and Assistant General Manager have the authority to delegate any or all portions of this Policy to subordinates, but the Superintendent and Assistant General Manager will be held responsible for compliance.
2. Implement the FIRE PROTECTON POLICY.
3. Annually budget for items related to fire protection equipment and training.
4. The Utility Superintendent shall review and approve all Hot Work Permits.

B. Employees shall:

1. Adhere to all aspects of this policy and immediately call 911 and report all incidents of fire to their supervisor.

C. District Engineer/Safety Officer shall:

1. Update and maintain the FIRE PROTECTION POLICY on an annual basis.

V. POTENTIAL FIRE HAZARDS

Examples of potential fire hazards include:

- a. Overloaded electrical circuits.
- b. Incorrectly wired electrical circuits.
- c. Use of electrical extension cords as permanent wiring.
- d. Inadequate protection of electrical cords from damage.
- e. Accumulation of trash and waste.
- f. Storage of combustible materials close to water heaters, furnaces, space heaters, hot lamps, hot plates, or outside close to buildings.

NCSO SAFETY POLICIES AND PROCEDURES

FIRE PREVENTION POLICY

- g. Improper storage of flammable liquids.
- h. Lack of preventive maintenance and lubrication of machinery and equipment.
- i. Inadequately maintained heating, ventilation and air conditioning systems.
- j. Open flames during welding, cutting or brazing.
- k. Smoking in unauthorized facilities and/or near flammable liquid storage or dispensing systems.
- l. Static electricity build up during dispensing of flammable liquids.
- m. Use of space heaters without tip-over shut off protection.
- n. Lack of explosion-proof electrical apparatus in areas where there can be a build up of flammable vapors.

VI. PREVENTATIVE MEASURES - HOUSEKEEPING

Housekeeping procedures employed by NCSO to minimize potential for a fire emergency include such activities as:

- a. Immediately cleaning up, reporting to supervisor, and proper environmental disposal of all spills of flammable liquids.
- b. Maintenance of electrical equipment to include:
 - 1) Keeping electrical circuits from becoming overloaded.
 - 2) Requesting additional electrical outlets and power if needed.
 - 3) Avoiding the use of electrical extension cords.
 - 4) Identifying problems with electrical wiring and outlets and having trained personnel make the necessary repairs.
 - 5) Ensuring that flammable vapors are kept away from any ignition points.
 - 6) Not placing anything on top of electrical cords.
- c. All use and storage locations (including tanks) of flammable liquids are properly posted, warning people in the area of the fire and explosion dangers.
- d. Storing flammable liquids in UL-approved safety cans (made of heavy-duty metal construction with a self-closing spout and a flame arrester in the spout) in UL-approved flammable liquid cabinets in areas where there are no ignition sources.
- e. Keeping all containers of flammable liquids closed when not in use to prevent potential release of flammable vapors that could ignite.
- f. Storing oily rags in UL-approved safety cans areas where there are no ignition sources.
- g. Not storing anything in Heating Ventilation and Air Conditioning (HVAC) utility rooms.
- h. Not storing any combustible materials within 36" of water heaters, furnaces, space heaters, hot lamps, and hot plates.
- i. Not storing pallets outside within 25 feet of any structure. Storing pallets no higher than six feet high.
- j. Only using space heaters that have automatic "tip-over" devices that shut off the units in the event they should topple over.

NCSD SAFETY POLICIES AND PROCEDURES

FIRE PREVENTION POLICY

- k. Enforcement of the “no smoking” rule in all NCSD facilities and vehicles. Smoking is permitted only in designated areas.
- l. Enforcement of the “no smoking” rule in areas where flammable liquids are stored dispensed or used.

VII. PREVENTATIVE MEASURES - MAINTENANCE

The Utility Superintendent and Assistant General Manager coordinate the proper maintenance of equipment and systems installed in the workplace to prevent accidental ignition of combustible materials and the immediate suppression of a fire in accordance with established procedures. Examples of such maintenance include:

- a. A regular schedule of ongoing preventive maintenance of machinery and equipment (including HVAC systems) to ensure inspection, maintenance and proper lubrication.
- b. Maintenance of sufficient electrical power to handle each facility's and function's electrical needs, including areas where space heaters are used.
- c. Ongoing maintenance of the NCSD's Hot Work Permit Program to include a fire watch at all times that open flames are present.
- d. Following all safety precautions when welding, cutting and/or brazing.
- e. Annual inspection of high voltage systems by qualified electricians and repair of identified electrical wiring and outlet problems.
- f. Ensuring all electrical fixtures, switches, and circuits inside flammable liquid storage rooms are explosion-proof devices.
- g. Maintaining all flammable liquid storage rooms with ventilation systems that meet National Fire Protection Association (NFPA) codes.
- h. Maintaining a protected and ventilated dispensing area for filling containers with flammable liquids.
- i. Dispensing flammable liquids from drums using a laboratory-tested hand pump.
- j. Installation and maintenance of explosion-proof electrical apparatus in areas where there is a potential build up of flammable liquids.
- k. Grounding of flammable liquid dispensing drums.
- l. Bonding of flammable liquid dispensing drums to smaller flammable liquid containers to reduce the build up of static electricity.
- m. Using closed piping systems when pumping large quantities of flammable liquids.
- n. Only using machines that produce sparks (such as machines used for grinding, cutting, drilling and sanding operations) in areas where there are no flammable or combustible materials.
- o. Fire protection systems within the NCSD are inspected and tested by authorized service contractors on a quarterly basis. Action is taken immediately if any system or part of a system is not working properly.

NCSD SAFETY POLICIES AND PROCEDURES

FIRE PREVENTION POLICY

VIII. TYPES OF FIRE PROTECTION EQUIPMENT OR SYSTEMS

The NCSD main office and operations center buildings are equipped with automatic fire and smoke detection systems as well as fire extinguishers.

IX. INSTRUCTIONS TO EMPLOYEES: WHAT TO DO IN THE EVENT OF A FIRE

Employees are to call 911 first in the event they spot a fire and initiate the NCSD's emergency evacuation system.

Fire extinguishers are installed in NCSD facilities in accordance with local fire code requirements. No employee will be required to fight a fire but all employees will be trained in the use of fire extinguishers allowing them, at their discretion, to prevent a major incident. All fires shall be reported to 911 before any action is taken to extinguish them.

X. TRAINING

- a. The Utility Superintendent and Assistant General Manager shall ensure that all employees receive initial training during New Employee Orientation and annual refresher training regarding the fire hazards of the materials and processes to which they are exposed and what they are to do in a fire.
- b. Only employees that have been trained shall be authorized to transfer or withdraw flammable liquids.
- c. Training will be provided in the use of fire extinguishers. All employees will be required annually to attend a class on the use of fire extinguishers.
- d. All training is to be documented.

XI. HOT WORK

- a. Hot work, as referred to in this policy, is defined as any work involving cutting, brazing, welding, or soldering. The Utility Superintendent shall approve areas for hot work and all hot work shall be approved by a completed Hot Work Permit.
- b. Only employees that have been trained shall be authorized to perform hot work or perform fire-watch duties.
- c. Hot work shall only be performed after all required permits from other permitting agencies, including CAL FIRE and San Luis County Air Pollution Control District, have been obtained.

NCSD SAFETY POLICIES AND PROCEDURES

FIRE PREVENTION POLICY

HOT WORK PERMIT Instructions:

The employee performing the inspection of the work site must complete the NCSD Hot Work Permit form prior to the start of any Hot Work and the Hot Work Permit must be approved and signed by Utility Superintendent. The employee performing the hot work must sign and post the permit at the jobsite for the duration of the Hot Work. After the Hot Work is completed, send a copy of the completed permit to the NCSD Safety Officer/District Engineer.

Location : _____ Nature of Job: _____

Required Safety Precautions Checklist:

- Available hose streams, and fire extinguishers are in service and operable.
- Hot Work equipment is in good repair.

Requirements within 35 feet of work:

- Flammable liquids, dust, lint and oily deposits are removed.
- Explosive atmosphere in area is eliminated.
- Floors are swept clean.
- Combustible floors are wet down, and covered with damp or fire-resistive sheets.
- Other combustibles are removed when possible.
- All wall and floor openings are covered.

Work on walls or ceilings:

- Construction is noncombustible and without combustible covering or insulation.
- Combustibles on other side of walls are moved away.

Work on enclosed equipment:

- Enclosed equipment is cleaned of all combustibles.
- Containers have been purged of flammable liquids/vapors.

Fire Watch/Hot work area monitoring:

- Fire Watch will be provided during and for at least 30 minutes after work, including any breaks.
- Fire Watch is supplied with suitable fire extinguishers and fire fighting equipment.
- Fire Watch is trained in the use of fire extinguishing equipment and in sounding emergency alarm.

Other Precautions Taken:

I verify the above location has been examined and that the precautions checked on the Required Safety Precautions Checklist have been taken to prevent fire.

Signature of Employee performing the Hot Work: _____

Signature of Person performing Fire Watch: _____

Job's start date: _____ Job's start time: _____

Utility Superintendent Approval – permission is granted to perform this work.

Utility Superintendent Name: _____ Date: _____

Job's completion date: _____ Job's completion time: _____

Final Check: _____ Employee Signature: _____

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JUNE 6, 2008



SUPPORT COUNTY GANG PREVENTION GRANT APPLICATION

ITEM

Ratify transmittal of letter of support for SLO County Federal Gang Prevention Grant Application [RECOMMEND ADOPTION].

BACKGROUND

The SLO County Gang Taskforce has requested a letter of support for their \$200,000 grant application to the U. S. Department of Justice. Attached is a copy of the request and information on the grant program.

RECOMMENDATION

Staff recommends that your Honorable Board ratify staff's submission of a letter of support.

ATTACHMENTS

- Request with supporting information

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\2008\GANG PREVENTION GRANT.DOC

BY FAX: .929-1932

TO: MIKE WINN – PRESIDENT NCSD

FROM: ART TRINIDADE

SUBJECT: LETTER OF SUPPORT FOR FEDERAL GRANT FUNDING OF GANG
PREVENTION COORDINATION

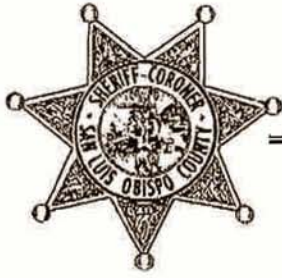
DATE: MAY 2, 2008

Mike – thanks for your support of the Commission’s grant application. I have included a copy of the notice of available funding, a cover letter from the Sheriff and a sample letter of support.

Please address the letter on CSD letterhead to:

U.S. Department of Justice
Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention

Time is extremely short, and we will be happy to pick up the letter – just give me a call at (805)781-5705. Thanks much

**San Luis Obispo County Sheriff's Department****Patrick Hedges****Sheriff-Coroner**P.O. BOX 32
San Luis Obispo, CA 93406**Area Code:**
(805)Administration
781-4540Animal Services
781-4400Civil
Enforcement
781-5484Crime
Prevention
781-4547Custody
781-4600Detectives
781-4500Patrol
781-4550Coast Station
528-6083Dispatch
781-4550North Station
237-3000South Station
473-7100Watch
Commander
781-4553Permits
781-4575Property
781-4533Records
781-4140Warrants
781-4588

May 30, 2008

Re: Request for Support for Gang Prevention Coordination Assistance

Dear Stakeholder:

I write today to respectfully request your support in our effort to seek federal financial assistance to support San Luis Obispo County's coordination of community-based anti-gang strategies. The Sheriff's Department, District Attorney's Office and Probation Department have formed an Anti-gang Coordinating Commission in order to produce a strategic plan to address and strengthen gang suppression, intervention and prevention in San Luis Obispo County.

To support this effort, we are seeking to gain federal financial assistance through a grant, OJJDP 2008 Gang Prevention Coordination Assistance Program. This grant would allow us to hire a contract coordinator for up to two years to help organize, support and oversee anti-gang efforts between our partner criminal justice agencies and community organizations. The deadline for submission of this grant is June 13, 2008, and the grant is highly competitive. We would like to include in the submission letters of support from community stakeholders such as your self, who are familiar with our emerging gang issues and local fiscal constraints.

Please address any letter of support or other correspondence to the Office of Juvenile Justice and Delinquency Prevention and forward to Chief Deputy Martin Basti, San Luis Obispo County Sheriff's Department, P.O. Box 32, San Luis Obispo, California 93406. If you have any questions, please contact Chief Basti at 805-781-4556.

Thank you for your continued support.

Sincerely,

Steve Bolts
Undersheriff

(Sample Language for Letter of Support)

Office of Juvenile Justice and Delinquency Prevention

To Whom It May Concern:

Our agency represents (Law Enforcement, Community Group, Faith Based Program, etc.). I am writing in support of the San Luis Obispo County Anti-Gang Coordinating Commission's efforts at obtaining Federal financial assistance through application for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Fiscal Year 2008 Gang Prevention Coordination Assistance Program Grant. San Luis Obispo County has a continuing gang problem and due to the current State and local fiscal crisis, concerns were raised regarding the County's ability to continue to address this problem. Recently, the Sheriff's Department, District Attorney's Office, and County Probation Department formed the San Luis Obispo County Anti-Gang Commission to address these growing concerns. This Grant would provide the opportunity to bring onboard a contracted Coordinator to assist in bringing together all stakeholders within the community such as faith-based groups, law enforcement, community groups, prosecutors, and schools to better coordinate all existing resources. The Coordinator would focus all the resources on a long range strategic plan to assist with intervention and prevention strategies.

Deadline for receipt of Letter of Support is June 6, 2008. Please use your letterhead and send to Chief Martin Basti, San Luis Obispo Sheriff's Department, P.O. Box 32, San Luis Obispo, California 93406. If you have any questions or would like your letter picked up instead of mailing, contact Chief Basti at 805-781-4556.

~~PROW - C-550-4602~~
(-12/11/08)

U.S. Department of Justice
Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention



The U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, is pleased to announce that it is seeking applications for funding under the OJJDP FY 2008 Gang Prevention Coordination Assistance Program. This program furthers the Department's mission by assisting localities with existing antigang strategies to enhance coordination of Federal, state, and local antigang resources. Funding is available to support salary and related expenses for coordinators with responsibility for organizing and overseeing antigang activities under two or more of the following strategies: primary prevention, secondary prevention, gang intervention, and gang enforcement. Awards will be made to support coordination of community-based antigang strategies.

OJJDP FY 2008 Gang Prevention Coordination Assistance Program

Eligibility

OJJDP invites applications from public agencies and private organizations (including faith- and community-based organizations).

(See "Eligibility," page 3.)

Deadline

All applications are due by 8:00 p.m. E.T., on June 13, 2008.

(See "Deadline: Application," page 3.)

Contact Information

For assistance with the requirements of this solicitation, contact Michael Shader, Program Manager, at 202-616-2605 or michael.shader@usdoj.gov, or Stephanie Rapp, Program Manager, at 202-514-9123 or stephanie.rapp@usdoj.gov.

Applicants must submit their applications through Grants.gov. The funding opportunity number is OJJDP-2008-1845. For technical assistance with submitting the application, call the Grants.gov Customer Support Hotline at 1-800-518-4726.

CONTENTS

Overview.....3

Registration.....3

Deadline: Application.....3

Eligibility.....3

 Faith-Based and Other Community Organizations3

Program-Specific Information.....4

Performance Measures.....6

How To Apply.....8

What an Application Must Include.....8

 Standard Form-424.....8

 Program Narrative.....8

 Budget and Budget Narrative.....11

 Indirect Cost Rate Agreement12

 Other Attachments.....12

Selection Criteria.....13

Review Process.....13

Additional Requirements14

OJJDP FY 2008 Gang Prevention Coordination Assistance Program CFDA # 16.544

Overview

Youth gangs continue to have a significant adverse impact on youth, families, and communities across America. A growing number of communities have adopted multi-strategy, multi-disciplinary approaches to reducing gang activity. The OJJDP FY 08 Gang Prevention Coordination Assistance Program provides funding for localities to enhance coordination of Federal, state, and local resources in support of community partnerships implementing two or more of the following antigang strategies: primary prevention, secondary prevention, gang intervention, and gang enforcement. This program is authorized by the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161.

Registration

Registering with Grants.gov is a one-time process; however, if you are a first-time registrant, it could take several weeks to validate and confirm your registration and to receive your user password. OJJDP highly recommends that you start the registration process as early as possible to prevent delays in submitting your application package to our agency by the deadline. There are three steps to complete before you may register: (1) register with the Central Contractor Registry (CCR); (2) register as an Authorized Organization Representative (AOR); and (3) be authorized as an AOR by your organization. For more information, go to www.grants.gov. **Note:** You must renew your CCR registration once a year. If you fail to renew your registration, OJJDP may prohibit you from submitting your application through Grants.gov.

Deadline: Application

The due date for applying for funding under this announcement is 8:00 p.m. E.T., June 13, 2008.

Eligibility

OJJDP invites applications from public agencies (including state agencies, units of local government, public universities and colleges, and tribal governments) and private organizations (including faith- and community-based organizations). Joint applications from two or more eligible applicants are welcome; however, one applicant must be clearly indicated as the primary applicant (for correspondence, award, and management purposes) and the others indicated as co-applicants.

Faith-Based and Other Community Organizations. Consistent with President George W. Bush's Executive Order 13279, dated December 12, 2002, and 28 C.F.R. Part 38, DOJ invites and encourages faith-based and other community organizations that statutorily qualify as eligible applicants under DOJ programs to apply for assistance

awards to fund eligible grant activities. DOJ will consider faith-based and other community organizations for awards on the same basis as other eligible applicants and, if they receive assistance awards, DOJ will treat them on an equal basis with all other grantees in the administration of such awards. DOJ will not favor nor discriminate against any eligible applicant or grantee on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization.

Faith-based organizations receiving DOJ assistance awards retain their independence and do not lose or have to modify their religious identity (e.g., removing religious symbols) to receive assistance awards. Faith-based organizations, however, may not use DOJ grant awards to fund any inherently religious activity, such as prayer or worship. Inherently religious activity is permissible, although it cannot occur during an activity funded with DOJ grant funds; rather, the grantee must separate such religious activity in time or place from the DOJ-funded program. Further, participation in such activity by individuals receiving services must be voluntary. Programs that DOJ funds may not discriminate in the provision of services based on a beneficiary's religion.

If your organization is a faith-based organization that makes hiring decisions on the basis of religious belief, it may be entitled, under the Religious Freedom Restoration Act 42 U.S.C. § 2000bb, to receive federal funds and yet maintain that hiring practice, even if the law creating the funding program contains a general ban on religious discrimination in employment. For the circumstances under which this may occur, and the certifications that may be required, please see the Civil Rights Compliance section under "Additional Requirements" in this announcement, which applicants are encouraged to review.

Program-Specific Information

The goal of the Gang Prevention Coordination Assistance Program is to reduce gang activity in targeted communities through improved coordination of existing resources and activities that support multiple complementary antigang strategies.

Award recipients will provide semi-annual progress reports that compare the status of existing partnerships and resource coordination with the baseline at the start of the project. Award recipients will participate in an all-sites meeting during the first 12 months of the project period to share the status of existing activities and coordination. A second all-sites meeting will be held in the second 12 months of the project period, at which written reports and presentations on progress will be delivered.

- **Purpose**

The purpose of the Gang Prevention Coordination Assistance program is to support and enhance the coordination of existing community-based gang prevention and intervention programs and strategies that are closely aligned with local law enforcement efforts.

Community-based gang prevention and intervention often involve multiple organizations and programs working in partnership to deliver complementary services to the same or similar target populations. Effective coordination can help identify existing programs and resources and maximize their impact through information sharing, mutual referrals, joint case management, and collective action. For example, educational and other programs

combined with rigorous law enforcement can effectively combat gang-related juvenile crimes.

Funding is available to support salary and related expenses for coordinators with responsibility for organizing and overseeing antigang activities under two or more of the following strategies: primary prevention, secondary prevention, gang intervention, and targeted gang enforcement (see "Antigang Strategies," below). If necessary, a small portion (up to \$30,000) of the awards under this program may be used to support service delivery under primary prevention, secondary prevention, or gang intervention strategies.

Applicants are strongly encouraged to coordinate with their United States Attorney's office. Awards will support coordination of community-based antigang initiatives that involve law enforcement as an essential partner. Other partners must be involved and may include schools, social services, community-based organizations, faith-based organizations, and businesses. Successful applicants will demonstrate that community-based antigang activities consistent with two or more of the antigang strategies described below are operating with existing funding.

- **Antigang Strategies**

Gang activity is a complex social phenomenon that varies by age, degree of gang involvement, and severity of offending. Risk factors associated with the probability of joining a gang run across family, school, peer, and community lines. Accordingly, no single program or strategy operating independently is likely to have a lasting effect in reducing gang activity. Comprehensive antigang initiatives, however, coordinate multiple approaches with recognition that each strategy plays a role towards a comprehensive effort. As previously noted, communities have adopted a broad range of strategies to combat gang activity, many of which may be categorized as follows:

- **Primary prevention** includes activities designed to reduce risk factors or increase protective factors among the entire population of youth and families in communities with significant levels of gang activity.

Secondary prevention includes programs and services intended to decrease the likelihood of joining a gang among youth who have already displayed early signs of problem behavior or who are exposed to multiple known risk factors for gang activity. These services typically include some form of individual risk assessment and often focus on youth aged 7 to 14 and their families. Younger siblings and family members of gang-involved youth are particularly suitable for these services.

- **Intervention with high-risk or gang-involved youth** includes community-based programs that balance the delivery of services and educational and employment opportunities with supervision and accountability. Intervention services typically involve outreach to youth and families, individual risk/needs assessment, case management, service referrals, coordinated service delivery, and supervision.

- **Targeted gang enforcement** includes community-oriented and problem-oriented policing strategies with an emphasis on gangs, and collaborative enforcement strategies involving probation and prosecution to target high rate gang offenders, gang leaders, and serious violent offenders.

• **Award Information**

Up to 12 awards of up to \$200,000 each will be made to support this 24-month project. Awards are to support coordination of antigang strategies. If necessary, a small portion (up to \$30,000) of each award under this program may be used to support service delivery under primary prevention, secondary prevention, or gang intervention strategies as described above. All awards are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law. It is anticipated that any awards that may be made under this solicitation should be awarded no later than September 30, 2008.

Match Requirement. Match is not required for this program.

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measures the results of their work. Performance measures for this solicitation are as follows:

Objective	Performance Measures	Data Grantee Provides
<p>Program objectives will depend on the specific project funded. Most projects can be classified under one or more of the following categories.</p>	<p>These will differ, depending on the specific program goals and objectives. Examples follow.</p>	<p>OJJDP has an online system (www.ojjdp-dctat.org) for grantee transmittal of performance measures data. For detailed information on specific programs, see OJJDP's Performance Measures Web site (http://ojjdp.ncjrs.gov/grantees/pm/).</p>
<p>Prevention Program</p> <p>Examples of objectives include prevention of delinquency risk behaviors, improvement in family functioning, and prevention of child victimization (including abuse and neglect).</p>	<p>Program Prevention and Intervention</p> <p>Number of program youth and/or families served.</p> <p>Number of service hours completed by program youth and/or families.</p> <p>Percent of programs implementing an evidence-based program or practice¹</p>	<p>Program Prevention and Intervention</p> <p>Number of program youth and/or families served.</p> <p>Number of service hours completed by program youth and/or families.</p> <p>Number of programs implementing an evidence-based program or practice.</p>

¹ Evidence-based programs and practices are those that have been shown through rigorous evaluation and replication to be effective in preventing or reducing juvenile delinquency, victimization, or related risk factors. Such programs or practices may be derived from diverse sources (e.g., Blueprints for Violence Prevention, OJJDP's Model Programs Guide, SAMHSA's Model Programs, state model programs resources). Evidence-based practices may include practices generally recognized as "best practices" based on research literature or the degree to which the practice is based on a clear, well-articulated theory or conceptual framework for delinquency or victimization prevention or intervention.

<p>Intervention Program</p> <p>Examples of objectives include intervening with delinquent youth, status offenders, and system-involved families</p>	<p>Percent of youth/families served with whom an evidence-based program or practice was used.</p> <p>Percent of youth/families successfully completing program requirements.</p> <p>Percent of program youth who offend or reoffend (arrested or seen at juvenile court for a new offense).</p> <p>Of the program youth who offend or reoffend, the percent of misdemeanor cases classified as "gang-related."²</p> <p>Of the program youth who offend or reoffend, the percent of felony cases classified as "gang-related."</p> <p>Number of program youth and/or families exhibiting desired change in targeted behaviors (depends on specific behavior targeted and might include substance use, antisocial behavior, school attendance, gang involvement, etc.).</p>	<p>Number of youth/families served with whom an evidence-based program or practice was used.</p> <p>Number of youth/families successfully completing program requirements.</p> <p>Number of program youth who offend or reoffend.</p> <p>Of the program youth who offend or reoffend, the number of misdemeanor cases classified as "gang-related."</p> <p>Of the program youth who offend or reoffend, the number of felony cases classified as "gang-related."</p> <p>Number of program youth and/or families exhibiting desired change in targeted behaviors.</p>
<p>Systems Improvement Project (Includes training and technical assistance).</p> <p>Examples of objectives include improving organizational capacity, program quality, and system effectiveness through training and technical assistance.</p>	<p>Systems Improvement Project</p> <p>Percent of programs implementing an evidence-based program or practice.</p> <p>Grantees for systems improvement projects also must select at least one measure listed below.³</p> <p>Number of MOUs developed between agencies and organizations.</p> <p>Number of planning activities conducted.</p>	<p>Systems Improvement Project</p> <p>Number of programs implementing an evidence-based program or practice.</p> <p>Number of MOUs developed between agencies and organizations.</p> <p>Number of planning activities conducted.</p>

² The operational definition of "gang-related" will be established by each grant recipient at the outset of the project and included on all progress reports.

³ If applicant does not deem any of the listed System Improvement performance measures appropriate, it should propose an alternate measure for OJJDP's review.

Coordinator
↓
Foundation

look for gaps

what we need more of

Comprehensive Evaluation

	Number of program materials developed.	Number of program materials developed.
	Number of program staff trained.	Number of program staff trained.
	Number of program staff exhibiting increased knowledge of the program area.	Number of program staff exhibiting increased knowledge of the program area.
	Number of program policies changed, improved or rescinded.	Number of program policies changed, improved or rescinded.

How To Apply

DOJ is participating in the e-Government initiative, one of 25 initiatives included in the President's Management Agenda. Part of this initiative—Grants.gov—is a "one-stop storefront" that provides a unified process for all customers of federal grants to find funding opportunities and apply for funding.

Grants.Gov Instructions. You can find complete instructions at www.grants.gov. If you experience difficulties at any point during this process, call the Grants.gov Customer Support Hotline at 1-800-518-4726.

CFDA Number. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 16.544, and the funding opportunity number is OJJDP-2008-1845.

A DUNS number is required. The Office of Management and Budget requires that all businesses and nonprofit applicants for federal funds include a DUNS (Data Universal Numeric System) number in their application for a new award or renewal of an award. Applications without a DUNS number are incomplete. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, simple, one-time activity. Obtain one by calling 1-866-705-5711 or by applying online at www.dunandbradstreet.com. Individuals are exempt from this requirement.

What an Application Must Include

Standard Form-424

Applicants must complete the Application for Federal Assistance (SF-424), a standard form used by most federal agencies, following the instructions it provides.

Program Narrative

Applicants must submit a program narrative that presents a detailed description of the purpose, goals, objectives, strategies, design, and management of the proposed program. The program narrative must be double spaced and single-sided, using a standard 12-point font (Times New Roman preferred), with 1-inch margins, not

exceeding 30 pages of 8½ by 11-inches. (Please number pages "1 of 30," "2 of 30," and so forth.) Material required under the "Budget and Budget Narrative" and "Other Attachments" sections will not count toward the program narrative page count. Applications that do not adhere to the required format may be deemed ineligible.

The program narrative must address the following selection criteria: (1) statement of the problem/program narrative, (2) impact/outcomes and evaluation, (3) project/program design and implementation, and (4) capabilities/competencies. The connections between these sections should be clearly delineated. For example, the goals and objectives should derive directly from the problems to be addressed. Similarly, the project design section should clearly explain how the program's structure and activities will accomplish the goals and objectives identified in the previous section.

- **Statement of the Problem/Program Narrative**

Applicants must briefly describe the nature and scope of gang activity and related gang crime in the target area to be addressed by this project. Local data should be used to provide evidence that the problem exists, demonstrate the size and scope of the problem, and document the effects of the problem on the target population and the larger community. Applicants should describe current attempts to address the problem with particular emphasis on existing antigang strategies of primary prevention, secondary prevention, gang intervention, and targeted enforcement. This section should describe existing partnerships and complementary antigang activities. This section should also describe operational definitions that are currently being used in the target area to identify gangs, gang members, and gang-related incidents. Current local procedures for tracking gang-related incidents must be described.

- **Impact/Outcomes and Evaluation**

Applicants must describe the goals of the proposed project and identify its objectives. When formulating the project's goals and objectives, applicants should be cognizant of the performance measures that will be required of successful applicants.

Goals. Applicants should provide a broad statement, written in general terms, that conveys the program's intent to change, reduce, or eliminate the problem described. This section of the program narrative must outline the specific goals of the project.

Program Objectives. Applicants should explain how the program will accomplish its goals. Objectives are specific, quantifiable statements of the desired results of the program, and they should be clearly connected to the problems identified in the preceding section. The objectives should be measurable. (Examples of measurable objectives might include the following: to provide school-based and community services for 40 youth returning from commitment, to increase the percentage of youth who successfully complete their current academic grade, to expand counseling services to cover an additional 50 at-risk youth.)

Performance Measures. Award recipients are required to collect and report data in support of performance measures. (See "Performance Measures," page 6.) Recipients' assistance in obtaining this information will facilitate future program planning and will allow OJP to provide Congress with measurable results associated with federally funded programs. Performance measures must reflect the specific problems, goals and

objectives, and design (see "Project/Program Design and Implementation" below) associated with this grant.

- **Project/Program Design and Implementation**

Applicants must clearly describe the specific actions that will be used to better coordinate and enhance existing antigang partnerships and strategies. Applicants should develop a program design that will facilitate the gathering of data on the required performance measures.

This section of the program narrative should describe what applicants propose to do and how they intend to do it. Applicants should identify the program's target area and target population and explain how enhanced coordination will improve partnerships and delivery of antigang strategies as described in the goals and objectives identified in the previous section.

Applicants should include a logic model that graphically illustrates how performance measures are related to the specific problems, goals, and program activities. Sample logic models are available at ojjdp.ncjrs.gov/grantees/performance.html.

This section should be detailed and describe how the project will operate throughout the duration of the funding period. This section must also discuss plans for sustainability, i.e., how the program will continue to operate beyond the period of the OJJDP grant award.

This section should include details regarding existing and leveraged resources (cash or in-kind) from local sources to support the project. Applicants should identify any other federal, state, or private foundation grants that serve the same local area and target population. Applicants must demonstrate that funding under this award will be used to accomplish new coordination activities that would not otherwise be funded through existing resources.

Applicants must demonstrate that they have queried the SMART system to determine program placement in a community facing significant need. OJJDP will be offering additional training and guidance on the SMART system and this new requirement. In the interim, all applicants should register with the SMART system at <http://smart.gismapping.info>, and become familiar with the data and information that is currently available.

Timeline. In addition to the narrative description of the project design, applicants must submit a timeline or milestone chart that indicates major tasks in the proposed design, assigns responsibility for each major task, and plots completion of these tasks by month or quarter for the duration of the award. Applicants should not use actual calendar dates in their timelines; instead the timeline should use "Year 1," "Month 1," "Quarter 1," etc. (see "Sample Project Timelines" at ojjdp.ncjrs.gov/grantees/timelines.html). The timeline should be submitted as a separate attachment, as stipulated in "Other Attachments," page 12. On receipt of an award, the timeline may be revised based on training and technical assistance provided by OJJDP.

- **Capabilities/Competencies**

Applicants must describe the roles and responsibilities of project staff and explain the program's organizational structure and operations.

This section of the program narrative must describe how the project will be managed and staffed locally. It must describe the functioning of existing multi-disciplinary partnerships. Management and staffing patterns should be clearly and evidently connected to the project design described in the previous section. This section should describe the experience and capability of the applicant's organization and any contractors that will be used to effectively implement and manage this effort and its associated federal funding. Any prior experience implementing projects of similar design or magnitude should be highlighted in this section.

Budget and Budget Narrative

Applicants must provide a budget that: (1) is complete, allowable, and cost effective in relation to the proposed activities; (2) shows the cost calculations demonstrating how the applicant arrived at the total amount requested; and (3) provides a brief supporting narrative to link costs with project activities. Applicants must submit a budget that includes both a detailed worksheet itemizing all costs and a narrative explaining and justifying each budget item. Total costs that the applicant specifies in its budget must match the amount it provides in the Estimated Funding section of the Project Information screen in GMS. All funds listed in the budget will be subject to audit.

Allowable costs under this program must focus on supporting and enhancing the coordination of antigang strategies. Such costs may include, but are not limited to: salary and related expenses for a coordinator and/or coordinator's assistant, equipment and supplies necessary to support the coordination function and information exchange between organizations, office space and local travel to support coordination, travel to support training and skills development, expenses related to securing meeting space, expenses related to data collection and analysis, and expenses for materials and mailings.

If necessary, a small portion (up to \$30,000) of the awards under this program may be used to support service delivery under primary prevention, secondary prevention, or gang intervention strategies as described above. Budget items intended for direct service delivery must be clearly identified in the Budget Detail Worksheet and the Budget Narrative and separated from other expenses related to coordination. Applicants may not use grant resources to pay salary or overtime for partners, executives, or operational personnel for the sole purpose of participating in coordination activities or meetings.

Applicants must budget for participation in two all-sites meetings during the project period. This should include travel expenses for up to 5 participants representing different antigang strategies for each meeting.

- **Budget Detail Worksheet**

The worksheet should provide the detailed computation for each budget line item. The worksheet must list the cost of each item and show how the cost was calculated. For example, costs for personnel should show the annual salary rate and the percentage of time devoted to the project for each employee paid through grant funds. The budget detail worksheet should present a complete and detailed itemization of all proposed costs. A Budget Detail Worksheet template is available at http://www.ojp.usdoj.gov/funding/forms/budget_detail.pdf.

- **Budget Narrative**

The narrative should describe each budget item and relate it to the appropriate project activity (coordination or service delivery). It should closely follow the content of the budget detail worksheet and provide justification for all proposed costs. In the budget narrative, the applicant should explain how fringe benefits were calculated, how travel costs were estimated, why particular items of equipment or supplies must be purchased, and how overhead or indirect costs (if applicable) were calculated. The budget narrative should justify the specific items listed in the budget detail worksheet (particularly supplies, travel, and equipment) and demonstrate that all costs are reasonable.

Indirect Cost Rate Agreement. Applicants that do not have a federally negotiated indirect cost rate and wish to establish one can submit a proposal to their cognizant Federal agency. Generally, the cognizant Federal agency is the agency that provides the preponderance of direct Federal funding. The applicant can determine this by reviewing an organization's schedule of federal financial assistance. If DOJ is your cognizant federal agency, obtain information needed to submit an indirect cost rate proposal at http://www.ojp.usdoj.gov/funding/pdfs/indirect_costs.pdf.

Other Attachments

Applicants must submit the following materials in as attachments to their application. The Other Program Attachments—which must be submitted as a Microsoft Word document (.doc), Excel worksheet, PDF file (.pdf), or text document (.txt)—must include:

- annualized project time line containing each project goal, related objective, activity, expected completion date, and responsible person or organization (see "Timeline," page 10).
- résumés of all key personnel.
- job descriptions outlining roles and responsibilities for all key positions.
- letters of support/commitment and memorandums of understanding from all existing partners and likely future partners.
- **Geographic Information.** To help the Office of Justice Programs develop a geographic information system (GIS) strategic planning capacity, applicants must provide the following two items of information on the geographic area served by the funded activity ("service area") in the formats specified below. If the mailing

address is in a rural area with no street address, include the nearest street intersection. If the program has multiple service areas, include the required information for each area. If proposed multiple service areas have not been determined, simply provide the requested information for the applicant.

- **Physical address.** If the mailing address is a P.O. Box, specify the physical address of the location where services are to be provided.

(example with street address)
ABC Associates
123 First Street
Shrewsbury, PA 17361

(example with no street address)
ABC Associates
First Street and Holiday Drive
Shrewsbury, PA 17361

- **Map and street description.** Provide a road map (with local detail) with the service area clearly depicted. Mark the map with information identifying the grant application it is tied to, including applicant name, application number, and contact name and phone number. Include a written description of streets bounding the service area. If GIS files are available, e-mail them to Dennis Mondoro at Dennis.Mondoro@usdoj.gov.

Selection Criteria

Applications that proceed to peer review will be rated on a 100-point scale, based on the following point values for the selection criteria:

- Statement of the Problem/Program Narrative (25 points)
- Impact/Outcomes and Evaluation (15 points)
- Project/Program Design and Implementation (25 points)
- Capabilities/Competencies (20 points)
- Budget (15 points)

See "Program Narrative," page 8, for detailed descriptions of the above criteria.

Review Process

OJP is committed to ensuring a standardized process for awarding grants. OJJDP reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with program or legislative requirements as stated in the solicitation.

Peer reviewers will be reviewing the applications submitted under this solicitation as well. OJJDP may use either internal or external peer reviewers or a combination thereof to review applications under this solicitation. An internal reviewer is an expert in the field of the subject matter of a given solicitation who is a current U.S. Department of Justice employee. An external peer reviewer is an expert in the field of the subject matter of a given solicitation who is not a current U.S. Department of Justice employee.

Applications will be screened initially to determine whether the applicant meets all eligibility requirements. Only applications submitted by eligible applicants that meet all requirements will be evaluated, scored, and rated by a peer review panel. Peer

reviewers' ratings and any resulting recommendations are advisory only. In addition to peer review ratings, considerations may include, but are not limited to, underserved populations, strategic priorities, past performance, and available funding.

After the peer review is finalized, the Office of the Chief Financial Officer (OCFO), in consultation with OJJDP, conducts a financial review of all potential discretionary awards and cooperative agreements to evaluate the fiscal integrity and financial capability of applicants; examines proposed costs to determine if the budget and budget narrative accurately explain project costs; and determines whether costs are reasonable, necessary, and allowable under applicable Federal cost principles and agency regulations. OCFO also reviews the award document and verifies the OJP Vendor Number.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final grant award decisions will be made by the Assistant Attorney General (AAG), who may also give consideration to factors including, but not limited to, underserved populations, strategic priorities, past performance, and available funding when making awards.

Additional Requirements

- Civil Rights Compliance
- Confidentiality and Human Subjects Protections regulations
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act Compliance
- DOJ Information Technology Standards
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with Office of the Comptroller Financial Guide
- Suspension or Termination of Funding
- Non-Profit Organizations
- Government Performance and Results Act
- Rights in Intellectual Property

OJJDP encourages applicants to review the information pertaining to the se additional requirements prior to submitting their application. Additional information for each can be found at http://www.ojp.usdoj.gov/funding/other_requirements.htm.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BSB*
DATE: JUNE 6, 2008



OPPOSE AB 983

ITEM

Oppose adoption of AB 983 and authorize communications regarding opposition [RECOMMEND ADOPTION].

BACKGROUND

Attached is an alert from CSDA regarding AB 983 and information on AB 983. Staff agrees with CSDA that AB 983 would expose the District to future litigation and increase the cost of developing public works projects.

RECOMMENDATION

Staff recommends that your Honorable Board adopt an "Oppose" position on AB 983 and authorize the General Manager and President to forward this position to our elected state representatives and the respective legislative committees considering the bill.

ATTACHMENTS

- CSDA Alert
- AB 983 Status, Analysis, and Current Text

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2008\Oppose AB983.DOC

Bruce Buel

From: Neil McCormick [neilm@csla.net]
Sent: Monday, June 02, 2008 11:55 AM
To: Bruce Buel
Subject: CSDA e-News for the week of June 2, 2008

If this email does not display properly, please view our [online version](#).
 To ensure receipt of our email, please add 'CSDA@informz.net' to your address book.



June 2, 2008

In this issue...

- [Protect Your District from Delays and Increased Costs on Projects—Oppose AB 983](#)
- [Bring Broadband to Your Community—Support SB 1191](#)
- [Annual Conference Registration Now Open](#)
- [Registration Still Open for Board Member Training – Redway](#)
- [Brown Act and Special Districts 101 Rescheduled](#)
- [East Bay Regional Park District Bans Out-of-State Boats](#)
- [El Dorado County Rethinking Multi-Million Dollar Aid to Fire Districts](#)

Employment

Here are the latest job opportunities posted on [SpecialDistrictCareers.com](#):

Laboratory Analyst
 Olivehurst Public Utility District

Park Patrol: Part-Time, Year Round Positions
 Pleasant Valley Recreation & Park District

Assistant Finance Officer

Protect Your District from Delays and Increased Costs on Projects—Oppose AB 983



Assembly Bill 983 (Ma) is a harmful bill that threatens to increase the costs of your public works projects through delays and lawsuits. CSDA and other local government entities are trying to stop the bill

but we need your help to kill it. It is important that you write your Senator and ask him or her to vote 'no' on the bill. [Read more about AB 983...](#)

Bring Broadband to Your Community—Support SB 1191

A bill to give CSDs the authority to provide broadband (high-speed) Internet access to their constituents is being heard soon and your help is needed to get the bill passed! With your support, Senate Bill 1191 passed the Senate and is now in the Assembly. **We need your letter today.** [Read more about SB 1191...](#)

Education

Annual Conference Registration Now Open



You may register now for CSDA's 2008 Annual

CSDA Calendar

June 6
Board Member/Ethics Training
Redway

June 11
State Controller's Workshop
Woodland

June 11
Sound Financial Management
Woodland

June 13
Board Member Training
Tehachapi

July 9
State Controller's Workshop
San Diego

July 9
Sound Financial Management
San Diego

July 18
Electronic Document Management



Protect Your District from Delays and Increased Costs on Projects—Oppose AB 983

Assembly Bill 983 (Ma) is a harmful bill that threatens to increase the costs of your public works projects through delays and lawsuits. CSDA and other local government entities are trying to stop the bill but we need your help to kill it. It is important that you write your Senator and ask him or her to vote "no" on the bill.

This bill requires that public agencies provide full, complete and accurate plans and specifications and estimates of costs to a contractor, shifting the liability from design professionals—upon which public agencies contract with and depend on for their expertise—to the public agency. AB 983 would require that the public agency be experts in construction and engineering to certify plans and specifications. Costs to constituents and the agency would increase because of delays, additional burdens and lawsuits.

What to do:

- Go to [CSDA's Members website](#) and click on the "Legislation and Grassroots" tab at the top.
- Download the template letter, fill in the blanks, and fax it to your state Senator. (If you don't know who your Senator is, go to the [Senate website](#) and click on the "Your Senator" link on the right-hand column.)
- Please also fax it to Thomas Vu (CSDA Legislative Director) at 916.442.7889.

[California Special Districts Association](#) | 1112 I Street | Suite 200 | Sacramento, CA 95814 | 877.924.CSDA (2732)

A Proud CSDA Alliance Partner

CURRENT BILL STATUS

MEASURE : A.B. No. 983
AUTHOR(S) : Ma.
TOPIC : Public contracts: plans and specifications.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/20/2008

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/20/2008
LAST HIST. ACTION : Read second time, amended, and to third reading.
FILE : SEN THIRD READING
FILE DATE : 06/04/2008
ITEM : 37

COMM. LOCATION : SEN JUDICIARY
COMM. ACTION DATE : 05/13/2008
COMM. ACTION : Do pass as amended.
COMM. VOTE SUMMARY : Ayes: 05 Noes: 00 PASS

TITLE : An act to amend Section 1104 of the Public Contract Code, relating to public contracts.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 983

AUTHOR : Ma

TOPIC : Public contracts: plans and specifications.

TYPE OF BILL :

Active
 Non-Urgency
 Non-Appropriations
 Majority Vote Required
 Non-State-Mandated Local Program
 Non-Fiscal
 Non-Tax Levy

BILL HISTORY

2008

May 20 Read second time, amended, and to third reading.

May 19 From committee: Amend, and do pass as amended. (Ayes 5. Noes 0.)

Apr. 9 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on JUD.

Jan. 24 Re-referred to Com. on JUD.

Jan. 15 Withdrawn from committee. Re-referred to Com. on RLS.

Jan. 14 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on APPR.

2007

Aug. 30 In committee: Set, first hearing. Held under submission.

Aug. 20 In committee: Placed on Appropriations suspense file.

July 23 In committee: Hearing postponed by committee.

July 10 From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 5. Noes 4.)

June 14 Referred to Com. on G.O.

June 5 In Senate. Read first time. To Com. on RLS. for assignment.

June 4 Read third time, passed, and to Senate. (Ayes 45. Noes 32. Page 1816.)

June 1 From committee: Do pass. (Ayes 12. Noes 5.) (May 31). Read second time. To third reading.

May 2 In committee: Set, first hearing. Referred to APPR. suspense file.

Apr. 18 From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 7. Noes 3.) (April 17).

Apr. 10 In committee: Set, first hearing. Hearing canceled at the request of author.

Mar. 15 Referred to Com. on B. & P.

Feb. 23 From printer. May be heard in committee March 25.

Feb. 22 Read first time. To print.

SENATE RULES COMMITTEE	AB 983
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

THIRD READING

Bill No: AB 983
 Author: Ma (D)
 Amended: 5/20/08 in Senate
 Vote: 21

SENATE JUDICIARY COMMITTEE : 5-0, 5/13/08
 AYES: Corbett, Harman, Ackerman, Kuehl, Steinberg

ASSEMBLY FLOOR : Not relevant

SUBJECT : Public contracts: plans and specifications

SOURCE : Associated General Contractors of California

DIGEST : This bill requires, except in design-build projects, a local public entity, before entering into any contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as would enable a bidding builder or contractor to carry them out. This bill provides that, for purposes of a breach of warranty action based upon incomplete, inaccurate, or misleading plans and specifications, nothing in its provisions shall be construed to require a contractor to prove an affirmative or intentional misrepresentation or active concealment on the part of the local public entity that provides the plans and specifications nor construed to public entity, charter city, or charter county from raising any affirmative defensive available to it under law. This bill also provides that nothing in its provisions expands, restricts,

CONTINUED

□

AB 983

or otherwise change the liability or potential liability of a design professional as set forth under current law.

ANALYSIS : The United States Supreme Court first established the standard for a "breach of warranty of correctness" of plans and specifications action against a public entity in United States v. Spearin (1918) 248 U.S. 132. In Spearin, a case in which a dry-dock contractor/builder detrimentally relied upon inaccurate and misleading plans and specifications supplied by the government, the Court held that "[I]f the contractor is bound to build according to plans and specifications prepared by the owner [public entity], the contractor will not be responsible for the consequences of defects in the plans and specifications. This responsibility of the owner is not overcome by the usual clauses requiring builders to visit the site, to check the plans, and to inform themselves of the requirements of the work?" (248 U.S. at 136.) In 1999, Public Contracts Code Section 1104 (AB 1314 [Pescetti], Chapter 875, Statutes of 1999), was enacted. Section 1104 provides that no local public entity may require a contract bidder to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works contracts; a public entity may require a contract bidder to review plans and specifications prior to a bid, and report any errors and omissions; and any contractor review is confined to the contractor's capacity as a contractor, not as a licensed design professional.

After Section 1104 was enacted, the Sixth Appellate District Court of Appeal issued its ruling in Thompson Pacific Construction, Inc. v. City of Sunnyvale (2007) 155 Cal.App.4th 525. In Thompson, the court held that in order to recover in a breach of warranty of correctness action, the contractor must prove that the public entity "affirmatively misrepresented, or actively concealed, material facts which rendered the bid documents misleading, and that the contractor reasonably relied on such misrepresentations in preparing its bid." (155 Cal.App.4th at 551.) The Thompson decision specifically relied upon pre-Section 1104 case law. The Associated General Contractors and the Construction Employers' Association requested that the California Supreme Court depublish that

CONTINUED

□

part [Section F] of the appellate court decision relating to the implied warranty of correctness of plans and

specifications. The Court denied the depublication request.

This bill is intended to respond to the Thompson decision, which the author, sponsor, and supporters assert was wrongly decided, misstates current law, and runs counter to sound public policy.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (Verified 5/20/08)

Associated General Contractors of California (source)
American Subcontractor Association California, Inc.
Associated Builders and Contractors of California
Associated General Contractors of San Diego
California Chapters of the National Electrical Contractors Association
California Legislative Conference of the Plumbing, Heating, and Piping Industry
California Sheet Metal and Air Conditioning Contractors, National Association Construction Employers' Association
Engineering Contractors' Association
Southern CA Contractors Association
State Building and Construction Trades Council of California

OPPOSITION : (Verified 5/20/08)

Association of School Administrators (5/28/08)
California Special Districts Association
Coalition for Adequate School Housing
League of California Cities
Las Angeles Unified School District (5/29/08)
San Diego County Water Authority (5/28/08)

ARGUMENTS IN SUPPORT : The sponsor, Associated General Contractors of California (AGC), writes: In a recent appellate court case, Thompson Pacific Construction v. City of Sunnyvale (2007), the court interpreted AB 1314 [PC Code

CONTINUED

□

AB 983

Page

4

Section 1104] and found that the contractor in question was liable for damages that were the result of deficient architectural plans because the contractor could not demonstrate that the public agency "affirmatively misrepresented or actively concealed material facts which rendered the bid documents misleading and the contractor relied upon the plans in submitting its bid." Such a

standard is nearly impossible to meet because public entities do not draft architectural or engineering plans; instead they typically transmit plans from the architect or engineer they hired to the contractor. While the facts of Thompson Pacific Construction may be subject to debate, the unreasonable evidentiary standard in the court's ruling is problematic and the reason why this bill is needed.

The sponsor AGC responds to the opponents by stating that current law already provides that no local public entity may require a bidder to assume responsibility for the completeness and accuracy of architectural and engineering plans and specifications, and thus this bill is a clarification of, not a major shift in, existing law. AGC also notes that state agencies are required to prepare full, complete, and accurate plans and specifications, and estimates of costs to bidders on public works projects. AGC asks why state agencies and departments should be held to a different standard than local public entities. Finally, AGC notes that current law provides that a local public entity may require a bidder to review plans and specifications prior to submission of a bid.

AGC argues that if public entities rely upon contractors to determine whether plans and specifications are complete and accurate, it is practically impossible for a contractor to prove that a local public entity intentionally misrepresented or actively concealed errors and omissions when the public entity acknowledges that it is not in the best position to review plans and specifications and is effectively ceding its review authority and responsibility.

In addition, under current law, public entities may require contractors to review plans and specification prior to submitting bids and report any errors or omissions found in their capacity as contractors. However, it is the architect or other design professional who is the licensed expert with respect to plans and specifications, not the

CONTINUED

□

AB 983
Page

5

contractor.

AGC argues that local public entities and their design professionals should bear the responsibility and liability for inadequate, inaccurate, and misleading plans and specifications.

ARGUMENTS IN OPPOSITION : The opponents argument with the sponsors counterparts, the League of California Cities (LCC), states that this bill abrogates the Thompson decision and represents a major shift in public contracting by requiring local public entities to provide full, complete, and accurate plans and specifications, including

cost estimates, for public works projects. LCC argues that this essentially absolves a contractor from any responsibility for reviewing plans and specifications before submitting a bid on a public works project (Note: The author's office amended the bill to respond to the issue by providing the bill's provisions may not be construed to prohibit a local entity from raising, in a breach of warranty of correctness action, any affirmative defenses available to it under the law.)

The LLC also state, "The sponsors of AB 983 maintain, despite several court rulings, that public entities should be held strictly liable for plans and specifications on public projects. There is simply no law that supports imposing such a burden on local agencies. Such a rule of law, as proposed in AB 983, would be inconsistent with public policy because it would shield unethical and dishonest contractors who seek to recover funds for alleged defects in plans and specifications. Public contracting is a collaborative process wherein a public agency and contractor work together to identify omissions or changes to provided plans and specifications. In fact, public agencies appreciate, and rely on, the expertise of contractors, who are professionals in their field and are in the best position to notify a public agency if project plans may be incomplete or inaccurate. Cities want to continue this collaborative process. However, under AP 983, a contractor would have no desire or incentive to report any omissions to a public agency prior to submitting a bid, resulting in expensive change orders to the benefit of the contractor and the detriment to the taxpayers of California."

CONTINUED

AB 983
Page

6

The Coalition for Adequate School Housing states, "AB 983 increases the liability of the school districts that hire design consultants to produce accurate and complete plans and specifications for construction projects by essentially shifting the professional responsibility and liability from design consultants and contractors to local agencies. School districts contract with these professionals precisely because they are educated, licensed and continuously trained in their respective fields. School districts rely on their expertise and knowledge. AB 983 would essentially require school districts and other local agencies to become experts in the building code, mechanical systems, structural engineering, construction, etcetera, in order to be able to certify as to the completeness and accuracy of the plans and specifications provided by hired professionals. This is neither feasible nor economic"

(and) "AB 983 (Ma) countervails case law." Currently, in order for a contractor to recover losses that result from incomplete, misrepresented, or concealed information on plans and specifications, he or she must provide sufficient evidence that the plans and specifications furnished for a construction project were affirmatively or intentionally misrepresented, or that information was intentionally concealed from a contractor by the public entity (Jasper Construction, Inc. v. Foothill Junior College Dist. (1979) 91 Cal.App.3d 1, 10). By requiring local agencies to certify to the completeness and accuracy of plans and specifications, AB 983 directly countervails law and shifts the burden and responsibility on to public agencies.

DLW:do 5/29/08 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

CONTINUED

BILL NUMBER: AB 983 AMENDED
 BILL TEXT

AMENDED IN SENATE MAY 20, 2008
 AMENDED IN SENATE APRIL 9, 2008
 AMENDED IN SENATE JANUARY 14, 2008

INTRODUCED BY Assembly Member Ma

FEBRUARY 22, 2007

An act to amend Section 1104 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Ma. Public contracts: plans and specifications.

Existing law contains various provisions relating to the bidding process for public works projects. Existing law prohibits a local public entity, charter city, or charter county from requiring a bidder to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except on clearly designated design-build projects.

This bill would require a local public entity, charter city, or charter county, before entering into any contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as will enable any competent mechanic or other builder to carry them out. This bill would exempt from these provisions any clearly identified design-build projects or design-build portions thereof. This bill would further provide that these provisions shall not be construed to require a contractor to prove an affirmative or intentional misrepresentation or active concealment on the part of the public entity, charter city, or charter county that provides the plans and specifications, *nor construed to prohibit the public entity, charter city, or charter county from raising any affirmative defenses available to it under law*.

This bill would also specify that these provisions would not expand, restrict, or otherwise change the liability or potential liability of a design professional, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1104 of the Public Contract Code is amended to read:

1104. (a) No local public entity, charter city, or charter county shall require a bidder to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except on clearly designated design-build projects. Nothing in this section shall be construed to prohibit a local public entity, charter city, or charter county from requiring a bidder to review architectural or engineering plans and specifications prior to submission of a bid, and report any errors and omissions noted by the contractor to the architect or owner. The

review by the contractor shall be confined to the contractor's capacity as a contractor, and not as a licensed design professional.

(b) Except for clearly identified design-build projects or design-build portions thereof, before entering into any contract for a project, a local public entity, charter city, or charter county shall provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as will enable any competent mechanic or other builder to carry them out.

~~Nothing~~

(c) (1) *Nothing*

in this section shall be construed to require a contractor to prove an affirmative or intentional misrepresentation or active concealment on the part of the local public entity, charter city, or charter county that provides the plans and specifications.

(2) *Nothing in this section shall be construed to prohibit a local public entity, charter city, or charter county from raising any affirmative defenses available to it under law.*

~~Nothing~~

(3) *Nothing* contained in this

section shall expand, restrict, or otherwise change the liability or potential liability of a design professional as defined in paragraph (2) of subdivision (b) of Section 2782.8 of the Civil Code.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: JUNE 5, 2008

**AGENDA ITEM
D-7
JUNE 11, 2008**

AWARD QUOTE FOR SOUTHLAND WWTF POND 3 SLUDGE REMOVAL

ITEM

Award quote for Southland WWTF Pond 3 Sludge Removal. [AUTHORIZE EXECUTION OF WORK ORDER]

BACKGROUND

As part of the treatment process, sludge accumulates in the bottom of the treatment ponds at the Southland WWTF and occasionally needs to be removed. Staff has been systematically over the last several years taking one treatment pond out of service at a time, draining it, letting the sludge dry, and then removing the sludge and abandoned subsurface aeration equipment. During this time, the District has had difficulty at times meeting the effluent discharge requirements for the plant.

Pond 3 is the last pond that needs sludge removed at this time. Staff also plans to remove the subsurface aeration equipment in Pond 3 that has been replaced with the surface aeration system. The sludge in Pond 3 has dried to the point that it is ready for removal. Staff would like to remove the sludge and place Pond 3 back into service as soon as possible so that the full treatment capacity of the plant can be restored.

Staff contacted seven contractors including Papich, Apodaca, MJ Ross, Phelan, Asmussen, R. Baker Construction, and FRM to obtain quotes for sludge removal project. While MJ Ross, Phelan Construction, Asmussen Construction, R. Baker Construction, and FRM visited the site, only R. Baker Construction provided the District with a firm quote for the sludge removal project. R. Baker Construction has experience in removing sludge from other ponds at the Southland WWTF.

RECOMMENDATION

Staff recommends that your Honorable Board authorize the General Manager to execute a Work Order with R. Baker Construction for the removal of sludge from Pond 3 at the Southland WWTF for a not-to-exceed expenditure limit of \$24,900.

ATTACHMENTS

- R. Baker Quote

R. BAKER, INC.
PIPE LINE AND UTILITY CONSTRUCTION
Post Office Box 419
Arroyo Grande, California 93420
Contractors License No. 372751
Phone 805-489-8711 Fax 805-489-1653
Email: JGuiton@charter.net

Date: 6/4/08
To: Tina Greitens
Company: NCSD
From: Jim Guiton
Re: Pond cleanup

Number of pages: 1

Comments: Dear Tina,

R. Baker, Inc. will provide labor, equipment and insurance to remove the sludge and piping from the southern basin on a T&M basis for a not-to-exceed price of \$24,900.00.

After reviewing the 2 previous pond cleanups there was a big difference in the costs to do the work. The first one only cost a little over \$8,000.00 to do but the last one was a little over \$25,000. The second pond was larger, it had piping to remove and the sludge had to be loaded and trucked a little ways from the pond, and the pond had a layer of gravel in the bottom. We also had to do it in 2 stages, removing the majority of the sludge and then waiting 3 weeks for it to dry out more.

This pond is hopefully drier and the sludge can be dumped in an area adjacent to the pond eliminating the need for trucking. I'm hoping my estimate is on the high side and the work will be able to be done for considerably less money but not knowing just how dry it is or how much material is actually there makes it difficult to say just how long it will take so I'm going by the previous costs for my proposal.

If you need any more information or have any questions please feel free to call anytime. We are in a position to start on this right away if you want us to proceed.

Thank you,
R. Baker, Inc.



Jim Guiton
Vice President