

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: District Attorney *2/3*

BOARD AGENDA # *B-1

Urgent

Routine

AGENDA DATE October 6, 2009

CEO Concur with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval for the District Attorney's Office to Enter an Agreement with the Office of Emergency Services, Federal Excess Property 1033 Program to Become Certified to Screen and Receive Excess Federal Property

STAFF RECOMMENDATIONS:

Authorize the District Attorney's Office to enter and sign an agreement with the Office of Emergency Services to evaluate and receive excess Federal property.

FISCAL IMPACT:

There are no costs involved in procuring property or equipment and, in fact, a savings may be realized as a result of not having to purchase certain items. Any costs to transport and maintain the equipment will be the responsibility of the District Attorney's Office. Appropriations to cover these costs are available in the Department's fiscal year 2009-2010 budget and there will be no additional cost to the General Fund.

BOARD ACTION AS FOLLOWS:

No. 2009-667

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval for the District Attorney's Office to enter an agreement with the Office of Emergency Services, Federal Excess Property 1033 Program to become certified to screen and receive excess federal property.

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DISCUSSION:

The Secretary of Defense is authorized by 10 U.S.C.2576a, to transfer to Federal and state agencies, personal property that is in excess to the needs of the Department of Defense and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counter drug/counterterrorism activities. The Governor of California has designated the Office of Emergency Services to implement this program statewide.

The Stanislaus County District Attorney's Office is seeking certification to screen and receive property in the California Counter Drug Procurement Program (CCDPP) for excess federal property. It is the DA's Office intent to put this property into use and maintain this property in accordance with the CCDPP guidelines, including maintenance and audit trails for each piece of equipment. Available excess property will be evaluated and accepted into the DA's Office inventory as is necessary. This program certification will last for a period of two years, at which time recertification will be sought.

POLICY ISSUE:

Approval of this request will support the Board's priority of Efficient delivery of public services.

STAFFING IMPACT:

There is minimal staffing impact associated with this request. All maintenance and records associated with the excess property will be kept in conjunction with existing county property and will be handled within existing staffing allocations.

1033 PROGRAM CERTIFICATION CHECK LIST

In order for your agency to participate in or continue your participation in the 1033 Program, please complete and submit the attached documents depending on the following situations:

- New to the program: Submit the following documents - 1, 2, 3, 4, 5
 - Your agency has had a change of your Chief Executive Officer (Sheriff, Chief, DA, etc...): Submit the following documents - 1, 2, 3, 4, 5
 - Change of your weapons point of contact: Submit the following documents - 4, 5, 6
 - Change of your authorized screeners: Submit the following documents - 4, 5
 - Change of your property accountability officer: Submit the following document - 5
 - Required review / update: Every TWO years:
 - If there are NO changes: Submit document 4 – The LESO Law Enforcement Agency Data Sheet.
 - If there are changes: Submit the appropriate documents that pertain to the changes as is outlined above.
1. State Plan of Operation (If your agency needs a signed original SPO, send 2 copies to us. Once signed by the State Coordinator, one original will be returned to you.)
 - Agency Name
 - Signed by CEO (Sheriff, Chief, DA, etc...)
 - Date signed
 2. Request for Certification letter
 - Prepared on Department Letterhead.
 - Follow template format.
 - Requirement 2 must have the exact phrase “Arrest and apprehension authority”
 - Signed by CEO (Sheriff, Chief, DA, etc...)
 - Date signed
 3. Release of Liability
 - Agency Name
 - Signed by CEO (Sheriff, Chief, DA, etc...)
 - Date signed
 4. LESO Law Enforcement Agency Data Sheet
 - All information typed.
 - Leave no blank lines. If not applicable – enter “NA”.
 - Signed by CEO (Sheriff, Chief, DA, etc...)
 5. CCDPP Data Sheet
 - All information typed.
 - Leave no blank lines. If not applicable – enter “NA”.
 - Screeners and Weapons POC must be same as LESO data sheet.
 6. Weapons Inventory (If your agency has received weapons through the 1208 or 1033 Programs)
 - Signed memorandum attached to weapons serial number listing acknowledging that all weapons have been inventoried.

**CALIFORNIA STATE PLAN OF OPERATION
Memorandum of Agreement and Understanding
Federal Excess Property 1033 Program**

NAME OF LAW ENFORCEMENT AGENCY Stanislaus County District Attorney's Office

PURPOSE:

The purpose of this State Plan of Operation - Memorandum of Agreement and Understanding (MOA/MOU) is to set forth the terms and conditions that will be binding between the California Counter Drug Procurement Program (CCDPP) and certified California Law Enforcement Agencies (LEAs) with respect to excess Department of Defense (DOD) personal property that is transferred pursuant to 10 U.S.C. §2576a and to promote the efficient and expeditious transfer of the property.

AUTHORITY:

The Secretary of Defense is authorized by 10 U.S.C. §2576a to transfer to Federal and State Agencies, personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counter drug/counterterrorism activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency (DLA) in determining whether property is suitable for use by agencies in law enforcement activities.

ORGANIZATIONAL AUTHORITY

The Governor of California has designated the Office of Emergency Services (OES) Executive Director as State Coordinator to implement this program statewide. Under the auspices of the OES Executive Director, delegated operational authority been assigned to the Law Enforcement and Victim Services Division-Public Safety Branch-Gang Violence and Counter Drug Procurement Section and is operating as the California Counter Drug Procurement Program (CCDPP) 1033 Excess Property Program.

STAFFING AND FACILITY

Under the CCDPP, the 1033 Coordinators, herein referred to as the "State Coordinator" (SC) and designated State Point of Contact (SPOC), have operational authority for the daily conduct, management, oversight and policy of this program. This responsibility also includes assuring that all program participants comply with applicable Federal and State laws and directives related to this program.

TERMS AND CONDITIONS

- **Law Enforcement Agency (LEA) Eligibility Criteria:** in determining whether property is suitable for use by agencies in law enforcement activities the Defense Logistics Agency (DLA) defines law enforcement activities as activities performed by government agencies whose primary function is the enforcement of applicable Federal, state and local laws and whose compensated law enforcement officers have powers of arrest and apprehension. The Department of Defense (DOD), through DLA, has final authority to determine

the type, quantity, and location of excess personal property suitable for use in law enforcement activities, if any, which will be transferred to the State. This agreement creates no entitlement for the LEA to receive DOD excess personal property. Property available under this agreement is for the current use of authorized program participants; it will not be issued for speculative/possible future use. Property will not be obtained for the purpose of sale, lease, rent, exchange, barter, or to secure a loan, or to otherwise supplement normal LEA budgets. All requests for property will be based on bona fide law enforcement requirements. The requisitioning of property for the purpose of cannibalization is not normally authorized. Exceptions to this policy must be submitted in writing to the State Coordinator's Office/LESO for final determination and approval. Any transportation, repair, maintenance, insurance, disposal or other expenses associated with these items is the sole responsibility of the LEA.

- **How to Enroll in the State 1033 Program:** LEAs must request enrollment in the program by completing a certification request. This certification application must include: agency description; signed copy of the liability release form; compliance with current laws statement; and signed copy of the screeners data sheet. The certification application should be submitted to the 1033 State Point of Contact/State Coordinator. Upon review and approval, the SPOC/SC will forward the approved certification to the Law Enforcement Support Office (LESO) for final approval. With LESO's approval, the SPOC/SC will provide the agency with a LEA screener's authorization memo (Authorization Letter for Property Screening and Receiving). Additionally, the CCDPP will provide the LEA with their identification (ID) number so they may screen and request property through the LEEDS automation system.

By signing this agreement and agreeing to accept excess property under this program, the LEA pledges that it agrees to comply with applicable provisions of the following national policies prohibiting discrimination:

- a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) as implemented by DOD regulations in 32 CFR part 195.
 - b. On the basis of age, in the Age Discrimination Act of 1975 (42 USC 6101, et seq.) as implemented by Department of Health and Human Services regulations in 45 CFR part 90.
 - c. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, P.L. 93-516 (29 U.S.C. 794), as implemented by Department of Justice regulations in 28 C.F.R. Part 41 and DOD regulations at 32 C.F.R. Part 56.
- **LEA Screener Criteria:** May be full-time and/or part-time paid employees of the agency. Screener may be sworn officers and/or non-sworn personnel assigned by the LEA to perform these duties. LEAs are allowed a maximum of four (4) screeners per agency. A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time. NOTE: **The Weapons Point of Contact (POC) must be a paid full-time sworn officer of the LEA. Also, volunteers or contracted employees do not qualify and can not be assigned screeners for the LEA.**
 - **Identification/Acquisition of Property:** LEAs find needed property electronically through the Defense Reutilization and Marketing Service (DRMS) website: www.drms.dla.mil or by physically visiting the nearest DRMO. Once property has been identified, LEAs submit an on-line request via the LEEDS system to the State Coordinator's Office. The State Coordinator approves or disapproves the request. If the request is approved it is forwarded electronically to the LESO and if approved it goes to Military

Standard Requisitioning and Issue Procedures (MILSTRIP) for final approval. If the request is approved, the LEEDS system will show a ***Request approved by Milstrip***, the requesting LEA is responsible for checking the LEEDS system and contacting the issuing DRMO to arrange pick up or transportation of the approved item.

IMPORTANT NOTE: LEAs have 14 days from the approval date to obtain the item screened from the DRMO and failure to obtain this item will result in the item going back into the system for re-issuance.

- **Transportation of Property:** It is the responsibility of the LEA to transport requested property from the DRMOs to their location. Additionally, transportation costs associated with the turn-in of property to a DRMO are the responsibility of the agency. DLA will not fund the transportation cost associated with property received under this program.
- **Storage of Property:** California is not authorized as a distribution center and so maintains no warehousing facilities.
- **Utilization of Property:** Property received through the 1033 Program must be placed into use within **one year of receipt and utilized for a minimum of one year**, unless the condition renders it unusable. If property is not placed into use within 1 year of receipt, it must be transferred to another authorized agency, or returned to a DRMO. Property returns/turn-ins must be coordinated through the CCDPP Office and LESO.
- **Distribution of Property:** LESO will approve property request for any law enforcement activities with preferences given to counter drug/counterterrorism.
- **Security of Property:** It is the responsibility of the gaining LEA to safeguard all property received through the 1033 Program. Should any property become lost due to theft, destruction or unauthorized sale/disposal, this information must be forwarded to the State Coordinator within seven (7) working days after the incident. The State Coordinator will contact the LESO for additional guidance.
- **Accountability of Property:** Along with the State, each LEA must maintain records for all property acquired through the 1033 Program. These records must provide an “audit trail” for individual items of property from receipt to distribution. These documents include but are not limited to the following: form 657, 657A, 657T, 657D, 657TI, DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form 5/10, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork issued through the LESO. The records maintained must also satisfy any and all pertinent requirements under California statutes and regulations for the program and this property.
- **Title of Property:** The DOD has authorized the transfer and use of excess Federal property to Law Enforcement Agencies and as such reserves the right to recall any and all property issued through the 1033/1208 programs. As stipulated in Federal regulation, title may be conditionally granted to LEA, however **prior written approval** must be obtained by the LEA before the disposal, sale, auction, trade-in, salvage or transfer of any 1033/1208 property can occur. LEAs should contact the State Coordinator’s Office for further clarification and direction.
- **Inactive File:** As of October 1, 2003, the LESO has instituted a 5-year file retention policy. LESO will

maintain active files for 2 years and inactive files for 3 years. After five years, the files are destroyed with the exception of DEMIL code B through Q, sensitive items, Demil A items with an acquisition value over \$20,000 and any other high dollar items.

- **State Compliance Reviews:** CCDPP will conduct periodic review of each LEA enrolled in the program, to include physical inventory/spot checks, of property received and any related records. Additionally, ensure LEAs are in compliance with the California Plan of Operation. These reviews will be documented and a copy will be sent to the LEA. Additionally, a copy will be maintained by the CCDPP office. If an LEA is found to be out of compliance with the terms or conditions of the State Plan of Operations, they will be given thirty (30) days to correct the deficiencies. If the LEA fails to correct the problems, the CCDPP Office/LESO may suspend the LEA from the program and may require the return of any and all equipment obtained under the 1033 program.
- **Turn in of Property:** LEAs will coordinate all turn in request through the State Coordinator's Office and must use form 657TI. Demil C, D, E, F, G & P items must be demilitarization and returned to a DRMO. Turn in requests can include; items the LEA does not want to disposal of through their own agency procedure, property that can be re-used by another LEA or property that the CCDPP or LESO has directed the LEA to return to a DRMO. It is the responsibility of the LEA to contact a DRMO to arrange for the return of property. Once the LEA has contacted a DRMO and they have agreed to accept the property, the LEA will submit the 657TI to the CCDPP. CCDPP will approve the request and forward to LESO for the issuance of the turn in 1348. Once issued by LESO, the turn in 1348 will be sent to the CCDPP (who will forward to the LEA) and a copy will be sent to the accepting DRMO. The LEA can then take the property back to the DRMO.

Once approved, LEAs have 14 days in which to return property. Once the documents have been signed off by the LEA and the DRMO accepting the property copies must be sent to CCDPP

- **Transfer of Property:** LEAs must coordinate, in writing, transfer of 1033 property through the State Coordinator. The State Coordinator will request final approval from the LESO. Property may be transferred within California or between other states as long as it is properly coordinated with the State Coordinator and LESO. If approved a "LESO transfer approval memo" will be sent to the State Coordinator and forwarded to the LEA transferring the equipment. **NOTE: no equipment is to be physically transferred between agencies until the transfer has been approved by the California State Coordinator and LESO. Failure to comply with this directive could result in the suspension of the LEAs from the 1033 program.**
- **Disposal of Property:** LEAs must request approval, in writing, from the State Coordinator before any 1033 property is disposed of. All disposal requests must be submitted on OES form 657D. The form 657D must be completed with the justification for disposal of this equipment and must include the method of disposal (salvage, junk, trade-in). Once approved at the State level, the form 657D will be forwarded to LESO for final approval. If approved a LESO approved 657D will be sent to the State Coordinator's Office and will be forwarded to the LEA for disposal. DEMIL codes A, B and Q may be approved for disposal in accordance with that agency's written disposal procedures. If the LEA does not have a copy of written disposal procedures then DEMIL codes B & Q items must be returned to the DRMO for disposal. All other DEMIL items must be disposed of as indicated below:

Items with DEMIL codes of C, D, E, F, G and P must be transferred to an authorized agency or must be returned to a DRMO when no longer needed. Costs incurred for transfers, disposals or turn-ins will be borne by the LEA.

- **DEMIL code A:** does not require demilitarization and may be disposed after obtaining State Coordinator and LESO approval.
- **DEMIL code B:** does not require demilitarization and may be disposed or returned to a DRMO. If disposed, it must be in accordance with Trade Security Controls (TSC) (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII).
- **DEMIL code Q:** does not require demilitarization and may be disposed or returned to a DRMO. If disposed, it must be in accordance with Commerce Control List Items (CCLI) disposition requirements (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII).
 - Specific Requirements for disposal of Munitions Lists Items (MLI)/CCLI (DEMIL codes B and Q) excerpt from DOD 4160.21-M:
 - Before disposing of MLI/CCLI property, Federal and State agencies must consider the export control requirements as promulgated by the Department of State, Department of Commerce and the Treasury Department, as applicable. Disposal methods shall ensure that appropriate safeguard requirements are in place prior to disposal. These will include, but are not limited to:
 - Notification of export control requirements to the end-user;
 - Exclusion of individuals, entities or countries who are excluded from Federal programs by the General Services Administration (GSA);
 - Exclusion if delinquent on obligations to the U.S. Government or are debarred or suspended from DOD contracts;
 - Exclusion if currently suspended for TSC violations;
 - Exclusion if subject to denial, debarment or other sanctions under public law
- **DEMIL codes C, D, E, F, G and P:** require demilitarization and must be returned to a DRMO. The State Coordinator must obtain the LESOs approval for equipment returns.
 - LESO will provide turn-in documentation (DD Form 1348-1A). With few exceptions, the State/LEA will be asked to coordinate the turn-in with a local DRMO. The State/LEA informs LESO which DRMO has agreed to accept the turn-in. LESO will then provide turn-in documentation to the accepting DRMO. Upon receipt of the turn-in documentation, the LEA must return the property to the specified DRMO. The DRMO personnel receiving the materials will sign the turn-in document and give the LEA a copy of the signed receipt paperwork. This receipt paperwork must be maintained in the LEA's files and a copy of the receipt must be forwarded to the State Coordinator for our files.

(See DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII for DEMIL rules).

For more information regarding these items, view the following links:

<http://www.demil.osd.mil> Defense Demilitarization and Trade Security Controls Program

<http://www.dtic.mil/mctl> Military Critical Technologies List

<http://www.drms.dla.mil/drms/internal/demil/CriticalBuzzKeyPt.pdf>
Critical Federal Supply Class (FSC) and Buzz words

<http://www.drms.dla.mil/drms/internal/demil/FSCAP.pdf> Flight Safety Critical Aircraft Parts (FSCAP)

- **Training:** The State Coordinator, the CCDPP staff will conduct training and familiarization for LEAs with guidance from the following websites:
 - ABCs of DEMIL www.hr.dla.mil/dtc/coursecatalog/PD/abcdmil.htm (knowledge of demilitarization codes)
 - DLA operations www.dla.mil (DLA handbook)
 - LESO operations www.dla.mil/j-3/leso (1033 Program/Automation training guides)
 - DRMS operations www.drms.dla.mil (automation requisitioning process/procedures)

THE STATE OF CALIFORNIA (OES) WILL:

- a. Receive applications for participation in this program from its law enforcement activities and validate with signature, their law enforcement mission prior to forwarding to LESO for approval as an authorized LEA. Once the approval process is completed and the agency is loaded in the DRMS automated requisitioning system, provide enrolled LEAs with their LEA ID number so they may request materials on-line.
- b. Forward requests to LESO for excess property that is necessary to meet requirements for LEA efforts. Assure the recipient LEA is identified on all requisitions.
- c. Be responsible for the transfer and/or allocation of property to qualified LEAs.
- d. Assure the LEAs agree to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims.
- e. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: form 657, 657A, 657T, 657D, 657TI, DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form

5/10, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork issued through the LESO. The records maintained must also satisfy any and all pertinent requirements under California statutes and regulations for the program and this property.

- f. In accordance with the LESO policy CCDPP will institute a 5-year file retention policy. CCDPP will maintain active files for 2 years and inactive files for 3 years. After five years, the files will be destroyed with the exception of DEMIL code B through Q, sensitive items and \$20,000 or more high dollar items.
- g. Enter into agreements with LEAs to assure they fully comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.
- h. Allow a maximum of two (2) screeners per LEA to physically screen at any DRMO (one primary and one alternate). The screeners must be named in a "letter of authorization" provided to the cognizant LESO, to be updated every other year, or as changes occur.
- i. Assure that all environmentally regulated property is handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- j. Assure that all weapons are registered with the U.S. treasury Department's Bureau of Alcohol, Tobacco and Firearms and the U. S. Army Tank Automotive and Armaments Command. Recipients must comply with all applicable firearms laws and regulations. The LEA will provide a weapon's POC on its data sheet. All weapon transfers between LEAs must be approved by the LESO before it is completed. LEAs must maintain an approved copy of the ATF Form 10 or Form 5 for all weapons.
- k. Identify to LESO each request that will be used in counter drug/counterterrorism activities.
- l. Ensure LEAs are aware of their responsibilities in accordance with the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7). *Reference: (www.whitehouse.gov/omb/circulars/a133/a133.html)*
- m. Review and/or update the Memorandum of Agreement (MOA) between DLA and the State of California annually or when the Governor or Governor-appointed State Coordinator changes. If there are no changes to the MOA, a signed letter/email will be sent to the LESO indicating that the plan has been reviewed and no changes were necessary.
- n. Ensure all LEAs enrolled in the State 1033 Program maintain a current copy of the California State Plan of Operation and require a current MOA/MOU signed by the agency executive officer.
- o. Conduct periodic reviews of each LEA enrolled in the program, to include physical inventory/spot checks, of property received and any related records. Additionally, ensure LEAs are in compliance with applicable Federal regulations and the California State Plan of Operation. These reviews must be documented and maintained by the State Coordinator's CCDPP staff for future LESO compliance reviews.
- p. Obtain reconciliation reports from the LESO website and conduct monthly and annual reconciliations between the State/LEA and LESO.

- q. Ensure serial/tail numbers are provided to LESO on items such as Peacekeepers/armored personnel carriers (APCs), aircraft, night vision goggles (NVGs)/sights and weapons.
- r. Validate and certify LEA inventory reconciliation results electronically and forward them to LESO within 10 working days of the monthly, or annual reconciliation process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.
- s. Submit requests for property returns (turn-ins to a DRMO) to LESO for final approval. Note: Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.
- t. Submit disposal, transfer and inventory adjustment requests to LESO.
- u. Contact the LESO in writing not later than 30-calendar days prior, to a State Coordinator/State Point of Contact change.
- v. All property transfers will cease if no current Governor's letter is on file; the State has not signed the MOA with DLA; the State Coordinator or POC does not validate all property requests and there is no State Plan of Operation on file.

THE LAW ENFORCEMENT AGENCY WILL:

- a. Submit applications for participation in this program to the State Coordinator for approval. Upon request from the State Coordinator or LESO provide a mission statement.
- b. Submit requests for property (electronically). Provide justification for all requisitions to the State Coordinator.
- c. Agrees to provide "*Release of Liability*" and maintain at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims.
- d. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: form 657, 657A, 657T, 657D, 657TI, DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form 5/10, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork issued through the LESO.

The records maintained must also satisfy any and all pertinent requirements under California statues and regulations for the program and this property.
- e. Comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.
- f. Allow a maximum of four (4) screeners, full-time and/or part-time, sworn and/or non-sworn officers, per LEA performing this duty. The screeners must be named in a "letter of authorization/datasheet" provided to the LESO, to be updated as changes occur, or whenever LESO requests an update. A weapons POC fulltime officer must be included on the "letter of

authorization/datasheet” for any LEAs that have received or are requesting weapons. NOTE: A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time. Appoint property accountability officer responsible for approving/disapproving all property requests and maintaining all accountability records for property received.

- g. Assure that all environmentally regulated property handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- h. Assure that the following weapons are registered with the U.S. Treasury Department’s ATF: M14, M16, M21 and M79. Recipients must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to LESO through the State Coordinator not later than seven (7) working days after the incident has occurred. The LEA must provide a weapon POC on all data sheets. All weapon transfers between LEAs must be approved by the LESO before it is completed. LEA must maintain an approved copy of the ATF Form 10 for all M14, M16, M21 and M79 rifles received.

1) The LEA accepts the transfer of weapons “as is” with no warranty of any kind including implied warranties, such as warranties of fitness for any purpose.

2) LEA acknowledges that there are hazards associated with the use of such property, which can cause damage to property and serious injury or death.

3) The LEA agrees to provide appropriate training to any person who may use the weapons.

4) Title is conditionally granted to the LEA upon receipt of the property however, final disposition of all weapons obtained through the program must be approved by CCDPP/LESO prior to any action being taken by the LEA. Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.

5) The Department of Defense and the State Of California assumes no liability for damages or injuries to any person or property arising from the use of these weapons.

6) The LEA shall indemnify and hold the United States government and the State Of California harmless from any and all suits, actions, demands, or claims of any nature arising out of the use of the property.

7) The LEA agrees to maintain, at its own expense adequate liability and property damage insurance and workman’s compensation insurance to cover any such claims.

8) The LEA certifies that no person who has been convicted of a misdemeanor crime of domestic violence will be allowed to possess, transport or otherwise have access to any weapons transferred under this agreement.

9) The LEA affirms that any weapon provide through this program must, if no longer needed for LEA use, be either transferred intrastate or interstate with coordination through the State Coordinator and LESO, or must be returned to the U.S. Army Tank-Automotive & Armaments Command (TACOM) at the expense of the LEA. The weapons may not be transferred to licensed firearms dealers or other persons.

10) Machine Guns defined by 26 U.S.C. 5845 (b) not owned by the United States Government, or any agency thereof, must be registered with the Bureau of Alcohol, Tobacco and Firearms (ATF). Unregistered machine guns transferred by DOD to civilian law enforcement agencies may be lawfully registered by submitting an ATF form 10, Application for Registration of Firearms

- i. Identify to LESO each request that will be used in counter drug/counterterrorism activities.
- j. LEAs enrolled in the State 1033 Program must maintain a copy of the State Plan of Operation and annually update or certify "No Change" by the MOU to the State Coordinator.
- k. LEAs must be aware of their responsibilities under the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7). *Reference: (www.whitehouse.gov/omb/circulars/a133/a133.html)*
- l. Conduct periodic reviews to include physical inventory/spot checks of actual property and related records. Ensure compliance with applicable MOA/MOU and/or the State Plan of Operation.
- m. Obtain reconciliation reports from the State Coordinator and conduct property reconciliations as requested by CCDPP/LESO.
- n. Ensure serial/tail numbers are provided to the State Coordinator on items such as Peacekeepers/APCs, aircraft, NVGs/sights and weapons.
- o. Submit requests for property returns (turn-ins to a DRMO) to the State Coordinator. Note: Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.
- p. Submit disposal, transfer and inventory adjustment requests to the State Coordinator.
- q. Contact the State Coordinator, in writing, not later than 30 days prior, when the property accountability officer changes.

OTHER TERMS AND CONDITIONS:

NOTICES:

Any notices, communications or correspondence related to this agreement shall be provided by the United States Postal Service, express service or facsimile to the cognizant DLA office. DLA may, from time to time, propose modifications or amendments to the provisions of this MOA. In such cases, reasonable opportunity will, insofar as practicable, be afforded the State Coordinator to conform to changes affecting their operations.

TERMINATION:

This MOA/MOU may be terminated by either party, provided the other party receives sixty calendar days (60) notice, in writing, or as otherwise stipulated by Public Law. If the LEA determines that they wish to withdraw from the 1033 program, the disposition of the equipment acquired through the program and currently held by the LEA will be determined by LESO/CCDPP. A final equipment disposition plan will be prepared and sent to the LEA. The LEA will have ninety (90) calendar days to comply with the plan and any and all disposition costs will be borne by the LEA.

IN WITNESS THEREOF, the parties hereto have executed this agreement as of the last date written below.

State Coordinator Signature

LEA Chief Executive Officer Signature

Gary Howard, 1033 State Coordinator

Type/Print Name and Title

District Birgit Fladager

Type/Print Name and Title

Date: _____

Date: _____

APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL

BY Linda S. Macey 9/28/09



OFFICE OF THE
DISTRICT ATTORNEY

Stanislaus County

832 12th Street, Suite 300
Modesto, CA 95354
Mailing: P. O. Box 442, Modesto, CA 95353
Phone: (209) 525-5550 Fax: (209) 525-5545

Birgit Fladager
District Attorney

Carol Shipley
Assistant District Attorney

Chief Deputy District Attorneys

Jerry Begen
Alan Cassidy
Dave Harris

August 4, 2009

California Emergency Management Agency
1033 Program Coordinator
Counter Drug Procurement Program
3650 Schriever Ave
Mather, CA 95655

RE: Request for Certification in the "1033" Excess Property Program

The Stanislaus County District Attorney's Office requests to certify in the CCDPP for excess federal property, as defined in the Defense Authorization Act, 1997, Public Law 104-81, Section 1033, Transfer of Excess Personal Property. The Stanislaus County District Attorney's office agrees to the following terms and conditions:

The Stanislaus County District Attorney is the Chief Law Enforcement Officer in Stanislaus County. The District Attorney's Office is responsible for the prosecution of all crimes committed in the County. The office currently employs 49 Deputy District Attorneys and 16 Criminal Investigators. District Attorney Criminal Investigators are full time, paid peace officers with arrest and apprehension authority as defined in 830.1 of the California Penal Code. Investigators are assigned to various task forces and special assignments including the FBI sponsored Central Valley Gang Impact Team (CVGIT), ATF Project Safe Neighborhoods Firearms Task Force (PSN), and the Stanislaus Drug Enforcement Agency (SDEA). Other Investigators are assigned to the Child Abduction Unit, Special Victims Unit, Real Estate Fraud Unit, Insurance Fraud, Consumer Fraud, Child Support and General Crimes Units.

The County of Stanislaus is located in the center of the State of California, approximately 90 miles east of San Francisco and 80 miles south of Sacramento. The population of the County is approximately 519,000; the city of Modesto's population is estimated to be 208,000 and the Sheriff's Office jurisdiction encompasses a population of 174,000. As a result, the Sheriff's Office and the city of Modesto Police Department provide law enforcement services to 75 percent of the residents in the county. The cities of Turlock, Ceres, Oakdale and Newman also maintain their own Police Departments.

We certify that our agency's weapons point of contact (WPOC), as stated on our current data sheets, is a full-time, compensated sworn officer, employed by our agency. Further, our agency certifies that we have the ability to maintain, operate, finance, and properly store any requested weapons, and that our Chief Executive Officer is familiar with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations governing the registration of any requested weapons.

Terms and Conditions:

We have read and understand the California State Plan of Operation, memorandum of agreement and understanding signed by our agency and the State of California. We understand and agree to comply with the terms and conditions included therein. The Stanislaus County District Attorney's Office waives and releases any claim against the State of California and the California Emergency Management Agency (formerly known as the Office of Emergency Services) for any injury or loss that results in the use of equipment procured under this program.

Compliance with Current Laws:

The Stanislaus County District Attorney's Office understands that failure to comply with the statements and assurance made in this request would be in direct conflict with the terms and conditions of this program. We also understand that noncompliance may result in program decertification and other sanctions that may be imposed by Cal-Ema (OES).

The Stanislaus County District Attorney's Office understands the authority to screen expires two years from the date of the approved State Plan of Operation. We also understand that it is our agency's responsibility to keep the CCDPP informed of personnel changes and to submit updated paperwork as required. We understand that the LESO Law Enforcement Data Sheet must be submitted, at a minimum, of every two years.

If further information is required, please contact Lt. Kevin Bertalotto at 209-525-5581.



Stanislaus County District Attorney

8 4-09

Date



RELEASE OF LIABILITY

Agency: Stanislaus County District Attorney, herein after identified as the California Law Enforcement Agency (CLEA) acknowledges the receipt of:

EXCESS MILITARY EQUIPMENT

From the Department of Defense pursuant to Section 1033 of the National Defense Authorization Act for Federal Fiscal Years 1990-1997. The CLEA accepts the transfer of 1033 equipment "as is" with no warranties of fitness for any purposes.

The CLEA acknowledges that there are hazards associated with the use of this property in which it can cause damage to property and/or serious injury or death. The recipient agrees that it **IS NOT** the responsibility of the Department of Defense, the Governor's Office of Emergency Services (OES), or the State of California to provide appropriate training to any person who may use this property. Neither OES nor the State of California will assume any liability for damages or injuries to any person or property arising from the use of the 1033 property. By signing this agreement, the CLEA agrees to indemnify, discharge and to save harmless, OES, the State of California, its legal representatives or assigns, and all persons acting under its permission or authority from any and all suits, actions, demands or claims of any nature arising out of the use of this property.

The CLEA agrees to maintain, at its expense, adequate liability and property damage insurance and workman's compensation insurance to cover any such claims.

The acquired equipment is considered excess to the needs of the Department of Defense because it is being replaced or it is no longer needed. The 1033 equipment may be in any condition from new to unserviceable. Neither OES nor the State of California will make any claims or warranties, expressed or implied, concerning the condition of said property or whether this property is usable for its intended purpose. The CLEA agrees to indemnify and hold the United States Government, OES, and the State of California harmless from any and all suits, actions, demands or claims of any nature arising out of the condition of said property. The equipment is eligible for transfer to federal, state and local law enforcement agencies (LEAs) for use in their activities under authority of Section 1033 of the National Defense Authorization Act for Federal Fiscal Years 1990-97. (This amendment extended the authority indefinitely.) The recipient CLEA acknowledges that it has been informed that, upon disposal, such disposal may produce hazardous waste. Transportation, storage, and disposal of such waste are the sole responsibility of the CLEA. The CLEA also acknowledges that it is solely responsible for the proper disposal of, and any and all costs associated with, any element or expendable subcomponent in accordance with environmental protection laws and regulations.

District Birgit Fladager

Name, title and signature of the Agency's Executive Officer

7-22-09

Date



LAW ENFORCEMENT AGENCY

DATA SHEET FEDERAL AND STATE

DATE: 02/23/09

AGENCY: Stanislaus County District Attorney's Office

ADDRESS (No P.O. Box): 832 12th Street, Suite 300

CITY: Modesto STATE: CALIFORNIA

ZIP: 95353-2327 E-MAIL: kevin.bertalotto@standa.org

PHONE: (209) 525-5550 FAX: (209) 525-5918

NUMBER OF SWORN OFFICERS

FULL TIME: 16 PART TIME: 1 RESERVE: 0

SCREENERS & WEAPONS POCs MUST BE AUTHORIZED IN WRITING BY THE GOVERNOR APPOINTED STATE COORDINATOR

SCREENER #1: Lieutenant Kevin Bertalotto

SCREENER #2: Investigator David Hutchinson

SCREENER #3: Investigator Richard Balentine

SCREENER #4: Chief Dan Inderbitzen

WEAPONS POC: Lieutenant Kevin Bertalotto

Inventory Check

Does the Agency currently have any Equipment from the 1208/1033 Program: YES NO

Weapons: YES NO Aircraft: YES NO APCs: YES NO

**By signing this request, the Chief Executive Official or Head of Agency is aware of property
Currently in the possession of their department.**

STATE & LOCAL AGENCIES

CHIEF EXECUTIVE OFFICIAL SIGNATURE: 

STATE COORDINATOR SIGNATURE: _____

FEDERAL AGENCIES

HEAD OF AGENCY SIGNATURE: _____



**LAW ENFORCEMENT AGENCY
DATA SHEET
CALIFORNIA COUNTER DRUG PROCUREMENT PROGRAM
1033/EXCESS PROPERTY PROGRAM**



Office: (916) 324-9181 Fax: (916) 327- 8714

THIS FORM MUST BE TYPED

AGENCY INFORMATION

Law Enforcement Agency:	Stanislaus County District Attorney's Office	DATE:	02/23/09
County:	Stanislaus		
AUTHORIZED SCREENERS: Must be Paid Agency Employees (Minimum 2)			
Screeners # 1	Rank: Lieutenant	Name:	Kevin Bertalotto
Office Number	(209) 525-6979	E-Mail:	kevin.bertalotto@standa.org
CELLPHONE:	(209) 652-1672		
Screeners # 2	Rank: Criminal Investi	Name:	David Hutchinson
Office Number	(209) 525-6916	E-Mail:	david.hutchinson@standa.org
CELLPHONE:	(209) 652-9116		
Screeners # 3	Rank: Criminal Investi	Name:	Richard Balentine
Office Number	(209) 525-6913	E-Mail:	richard.balentine@standa.org
CELLPHONE:	(209) 652-1677		
Screeners # 4	Rank: Chief	Name:	Dan Inderbitzen
Office Number	(209) 525-6976	E-Mail:	dan.inderbitzen@standa.org
CELLPHONE:	(209) 652-1588		
WEAPONS POC: Must be Full-Time, Compensated Sworn Officer			
Weapons POC	Rank: Lieutenant	Name:	Kevin Bertalotto
Office Number	(209) 525-6979	E-Mail:	kevin.bertalotto@standa.org
CELLPHONE:	(209) 652-1672		
Property Accountability Officer (Main Point of Contact)			
Accountability Officer	Rank: Lieutenant	Name:	Kevin Bertalotto
Office Number	(209) 525-6979	E-Mail:	kevin.bertalotto@standa.org
CELLPHONE:	(209) 652-1672		
COUNTY SHERIFF / CHIEF OF POLICE / EXECUTIVE OFFICER			
Agency CEO	Rank: District	Name:	Birgit Fladager
Office Number	(209) 525-5550	E-Mail:	birgit.fladager@standa.org

Please complete all fields. (Use N/A if requested information does not apply).

Agency Information:

Date	02/23/09
Agency Name	Stanislaus County District Attorney's Office
Street address	832 12th Street, Suite 300
City	Modesto
Zip + four	95353-2327
County	Stanislaus
Default E-mail Address	kevin.bertalotto@standa.org
Primary Telephone Number	(209) 525-5550
Primary Fax Number	(209) 525-5918
Number of Full Time Sworn Officers	19
Number of Part Time Sworn Officers	1
Number of Reserve Sworn Officers	0

Agency Chief Executive Officer Information:

Agency CEO Title	District Attorney
Agency CEO Name	Birgit Fladager
Agency CEO Telephone Number	(209) 525-5550
Agency CEO E-mail Address	birgit.fladager@standa.org

Property Accountability Officer (Main Point of Contact):

Title	Lieutenant
Name	Kevin Bertalotto
Desk Phone Number	(209) 525-6979
Cellular Phone Number	(209) 652-1672
E-mail Address	kevin.bertalotto@standa.org

Weapons Point of Contact (Must be full time, compensated sworn officer):

Title	Lieutenant
Name	Kevin Bertalotto
Desk Phone Number	(209) 525-6979
Cellular Phone Number	(209) 652-1672
E-mail Address	kevin.bertalotto@standa.org

Authorized Screener Data (Must have a minimum of 2 screeners)

Screener # 1

Title Lieutenant
Name Kevin Bertalotto
Desk Phone Number (209) 525-6979
Cellular Phone Number (209) 652-1672
E-mail Address kevin.bertalotto@standa.org

Screener # 2

Title Criminal Investigator
Name David Hutchinson
Desk Phone Number (209) 525-6916
Cellular Phone Number (209) 652-9116
E-mail Address david.hutchinson@standa.org

Screener # 3

Title Criminal Investigator
Name Richard Balentine
Desk Phone Number (209) 525-6913
Cellular Phone Number (209) 652-1677
E-mail Address richard.balentine@standa.org

Screener # 4

Title Chief
Name Dan Inderbitzen
Desk Phone Number (209) 525-6976
Cellular Phone Number (209) 652-1588
E-mail Address dan.inderbitzen@standa.org

1033 Program Certification

Agency 1033 Equipment information

Does your agency currently have **Equipment** from the 1208/1033 Program?

Yes No

Does your agency currently have **Weapons** from the 1208/1033 Program?

Yes No

Does your agency currently have **Aircraft** from the 1208/1033 Program?

Yes No

Does your agency currently have **Armored Response Vehicles** from the 1208/1033 Program?

Yes No

Thank you for entering your agency's information.

All signatures must be original and all certification requests and updates must be mailed to our office.

Office of Emergency Services
1033 Program Certification Coordinator
3650 Schriever Ave
Mather, CA 95655

Printing Tips

To print all pages within this package, including data input pages:

1. Hit Ctrl + P, to display the print dialogue box.
2. Click OK

To print single pages or page ranges:

1. Hit Ctrl + P, to display the print dialogue box.
2. In the Page Range Box, enter the page numbers and/or page ranges separated by commas.

-Example #1: 5 (This will print the 1033 Program Certification Checklist).

-Example #2: 9-19 (This will print the State Plan of Operation).

-Example #3: 6-7,20-21 (This will print the LESO data sheet, CCDPP data sheet, the certification letter template, and the weapons inventory template).

