



CITY COUNCIL AGENDA REPORT

MEETING DATE: March 17, 2009

ITEM NUMBER **VI-10**

SUBJECT: Memorandum of Understanding (MOU) with Immigration and Customs Enforcement for the Reimbursement of Joint Operation Expenses from the Treasury Forfeiture Fund

DATE: February 11, 2009

FROM: Police Department

PRESENTATION BY: Clay Epperson, Police Lieutenant

FOR FURTHER INFORMATION CONTACT: Clay Epperson – (714) 754-5603

RECOMMENDATION:

Approve and authorize the Chief of Police to sign a Memorandum of Understanding (MOU) with United States Department of Homeland Security, Customs and Immigration Enforcement (ICE), to obtain reimbursement for overtime expenses incurred while conducting joint operations. This MOU would remain in effect until terminated in writing by either party.

BACKGROUND:

The Costa Mesa Police Department has been involved in a number of joint investigations and enforcement operations with ICE. These cases have involved aliens engaged in serious crime, drug trafficking, alien smuggling and large scale identify theft by foreign nationals. ICE offers a program to reimburse local agencies for overtime expended in the course of these joint investigations. To access this funding, the City of Costa Mesa would be required to pre-designate specific officers and supervisors to participate in joint investigations, and for the City to endorse the MOU.

ANALYSIS:

The MOU with ICE stipulates that overtime for designated officers working criminal cases jointly with ICE could have overtime expenses reimbursed up to \$15,000.00 per officer per year. All of the joint operations would have to be mutually agreed upon by CMPD and ICE. The CMPD Special Enforcement Detail, Gang Detail and Economic Crimes Unit are currently working cases that would become subject to overtime reimbursement. All of these cases have been and would continue to be worked by these units with or without the benefit of overtime reimbursement. In this regard, the reimbursement of overtime costs could help offset some of the cost to the city for conducting these investigations. The only requirements to obtain the funding is that the officers be pre-designated, that the City provide appropriate documentation as to the hours and activities dedicated to the case, and that the cases be pre-approved for funding by ICE.

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN IMMIGRATION
AND CUSTOMS ENFORCEMENT AND LOCAL, COUNTY, OR STATE LAW
ENFORCEMENT AGENCY FOR THE REIMBURSEMENT OF JOINT
OPERATIONS EXPENSES FROM THE TREASURY FORFEITURE FUND**

This Agreement is entered into by the Costa Mesa Police Department (NCIC CODE #N0300400) and Immigration and Customs Enforcement (ICE), Office of the Special Agent in Charge, Los Angeles (SAC/LA) for the purpose of the reimbursement of costs incurred by the Costa Mesa Police Department in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the ICE Fiscal Year Plan, and the money is available within the Treasury Forfeiture Fund to satisfy the request(s) for the reimbursement of overtime expenses and other law enforcement expenses related to joint operations.

I. LIFE OF THIS AGREEMENT

This Agreement becomes effective on the date it is signed by both parties. The terms of this Agreement will remain in effect until terminated, in writing, by either party.

II. AUTHORITY

This Agreement is established pursuant to the provisions of 31 U.S.C. § 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses incurred by local, county, and state law enforcement agencies as participants of joint operations/task forces with a federal agency participating in the Treasury Forfeiture Fund.

III. PURPOSE OF THIS AGREEMENT

This Agreement establishes the responsibilities of both parties and the procedures for the reimbursement of certain overtime expenses and other law enforcement expenses pursuant to 31 U.S.C. § 9703.

IV. APPLICABILITY OF THIS AGREEMENT

This Agreement is valid for all joint investigations led by ICE, SAC Los Angeles with the participation of the Costa Mesa Police Department, and until terminated, in writing, by either party.

V. TERMS, CONDITIONS, AND PROCEDURES

A. Assignment of Officer(s)

To the maximum extent possible, the Costa Mesa Police Department shall assign dedicated officers to any investigation or joint operation. Included as part of this Agreement, the Costa Mesa Police Department shall provide the ICE, SAC Los Angeles with the names, titles, four last digits of SSNs, badge or ID numbers, and hourly overtime

wages of the officer(s) assigned to the joint operation. This information must be updated as necessary.

B. Submission of Requests for Reimbursement (Invoices) and Supporting Documentation

1. The Costa Mesa Police Department may request the reimbursement of overtime salary expenses directly related to work on a joint operation with ICE, SAC Los Angeles performed by its officer(s) assigned to this joint operation. In addition, the Costa Mesa Police Department may request reimbursement of other investigative expenses, such as travel, fuel, training, equipment and other similar costs, incurred by officer(s) assigned as members of the designated joint operations with the ICE, SAC Los Angeles.

The Costa Mesa Police Department **may not** request the reimbursement of the same expenses from any other Federal law enforcement agencies that may also be participating in the investigation.

2. **Reimbursement payments will not be made by check.** To receive reimbursement payments, the Costa Mesa Police Department must ensure that Customs and Border Protection, National Finance Center (CBP/NFC) has a current ACH Form on file with the agency's bank account information, for the purposes of Electronic Funds Transfer. The ACH Form must be sent to the following address:

CBP National Finance Center
Attn: Forfeiture Fund
6650 Telecom Dr. Suite 100
INDIANAPOLIS, IN 46278

If any changes occur in the law enforcement agency's bank account information, a new ACH Form must be filled out and sent to the CBP/NFC as soon as possible.

3. In order to receive the reimbursement of officers' overtime and other expenses related to joint operations, the Costa Mesa Police Department must submit to ICE, SAC Los Angeles the TEOAF Form "Local, County, and State Law Enforcement Agency Request for Reimbursement of Joint Operations Expenses (Invoice)", signed by an authorized representative of that agency and accompanied by supporting documents such as copies of time sheets and receipts.

The Costa Mesa Police Department shall certify that the request is for overtime expenses incurred by the Costa Mesa Police Department for participation with the task force. The Costa Mesa Police Department shall also certify that requests for reimbursement of overtime expenses have not been made to other Federal law enforcement agencies that may also be participating with the task force.

4. The Costa Mesa Police Department acknowledges that they remain fully responsible, as the employer of the officer(s) assigned to the investigation, for the payment of overtime salaries and related benefits such as tax withholdings, insurance coverage, and all other requirements under the law, regulation, ordinance, or contract, regardless of the reimbursable overtime charges incurred. Treasury Forfeiture Fund reimburses overtime salaries. Benefits are not reimbursable.

All requests for reimbursements of costs incurred by the Costa Mesa Police Department must be approved and certified by the Special Agent in Charge, Los Angeles, California, U.S. Immigration and Customs Enforcement. The Treasury law enforcement agency shall countersign the invoices for payment.

5. The maximum reimbursement entitlement for overtime worked on behalf of the joint investigation is set at \$15,000 per officer per fiscal year.
6. The Costa Mesa Police Department will submit all requests for the reimbursement together with appropriate documentation of joint operations' expenses to ICE, SAC Los Angeles at the following address: 34 Civic Center Plaza, 4th Floor, Santa Ana, CA 92701 Attn: SSA Juan C. Munoz, Jr., Ph. 714-972-4125, Fax. 714-972-4121.

VI. PROGRAM AUDIT

This Agreement and its provisions are subject to audit by ICE, the Department of the Treasury Office of Inspector General, the General Accounting Office, and other government designated auditors. The Costa Mesa Police Department agrees to permit such audits and agrees to maintain all records relating to these transactions for a period not less than three years; and in the event of an on-going audit, until the audit is completed.

These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts of expenditures related to this agreement, as well as interviews of any and all personnel involved in these transactions.

VII. REVISIONS

The terms of this Agreement may be amended upon the written approval by both parties. The revision becomes effective on the date of approval.

VIII. NO PRIVATE RIGHT CREATED

This is an internal government agreement between the ICE, SAC Los Angeles and the Costa Mesa Police Department, and is not intended to confer any right or benefit to any private person or party.

Signatures:

Robert A. Schoch
Special Agent in Charge
Immigration and Customs Enforcement
Los Angeles, California

Christopher Shawkey
Chief of Police
Costa Mesa Police Department
Costa Mesa, California

Date: _____

Date: _____

