



PLACER COUNTY
SHERIFF
CORONER-MARSHAL



MAIN OFFICE
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TAHOE SUBSTATION
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EDWARD N. BONNER
SHERIFF-CORONER-MARSHAL

DEVON BELL
UNDERSHERIFF

To: Honorable Board of Supervisors
From: Edward N. Bonner, Sheriff-Coroner-Marshal 
Date: April 15, 2008
Subject: California State Dept. of Boating and Waterways FY2008/2009 Contract

BOARD ACTION REQUESTED

Your Board is requested to approve the attached resolution and authorize the Sheriff-Coroner-Marshal to execute the agreement between Placer County and the State Department of Boating and Waterways for FY 2008/2009 in the maximum amount of \$72,475.

BACKGROUND

Annually, the Sheriff's Department submits an application to the State Department of Boating and Waterways to support our boating safety enforcement program. The total cost of the program includes State funding in the maximum amount of \$72,475 and County boat taxes estimated in the amount of \$252,316, for a total program cost of \$324,791. County boat tax estimates are provided by the Auditor-Controller based on the current years actual activity.

During the summer months, the department runs a full-time program at Lake Tahoe and part time at Folsom Lake, Rollins Lake, Camp Far West, Lake Clementine and other smaller lakes in the area. Your Board's approval of the attached resolution and authorization for the Sheriff to execute the agreement and related documents is requested and required by the State to receive these monies and participate in this program.

FISCAL IMPACT

This program is funded totally with boat taxes and the allocation from the Department of Boating and Waterways for a total program amount for FY 2008/2009 of \$324,791. Payments made by the State occur only after the County boat taxes have been expended. No other County monies are involved. The budget submitted to your Board for FY 2008/2009 reflects these amounts.

Before the Board of Supervisors County of Placer, State of California

In the matter of:
State Department of Boating and Waterways
Contract Agreement

Resol. No:
Ord. No:
First Reading:

The following Resolution was duly passed by the Board of Supervisors of the
County of Placer at a regular meeting held April 15, 2008

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the Sheriff's Department (Agency) is required to execute a contract agreement with the State Department of Boating and Waterways (Department) for the Boating Safety and Enforcement Financial Aid Program in association with its Marine Patrol program; and

WHEREAS, the Sheriff's Department is responsible to perform boating safety and enforcement activities and to submit claims to the Department on a quarterly basis;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves the contract agreement between Placer County and the Department for the Boating Safety and Enforcement Financial Aid Program in the maximum amount of \$72,475 and authorizes the Sheriff to execute the contract agreement and claim reimbursement forms.

Boating Safety and Enforcement Financial Aid Program Contract

This contract, entered into this _____ day of _____, 20___, by and between the CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS, hereinafter called "Department," and the *COUNTY OF PLACER*, hereinafter called "Agency";

WITNESSETH

WHEREAS, Contingent on approval of the **Fiscal Year 2008-2009** budget, the Department intends to contract with Agency for the purpose of performing boating safety and enforcement activities as described in Title 14, California Code of Regulations Section 6593.3; and

WHEREAS, Agency is equipped, staffed and prepared to provide such services on the terms and conditions set forth in this contract and in accordance with Title 14, California Code of Regulations Section 6593 et seq.; and

WHEREAS, pursuant to Title 14, California Code of Regulations Section 6593.6, Department shall enter into an annual contract with each participating agency;

NOW, THEREFORE, it is mutually agreed as follows:

I. Applicable Law

Agency shall observe and comply with all applicable federal, state, and county statutes, ordinances, regulations, directives, and laws, including, but not limited to, Harbors and Navigation Code Section 663.7 and Section 6593 et seq. of Title 14, California Code of Regulations, as amended and attached hereto and incorporated by reference as Attachment I. Contract shall be deemed to be executed within the State of California and construed and governed by the laws of the State of California.

II. Description of Services

Agency shall conduct boating safety and enforcement activities in the jurisdiction of the Agency in consideration of the payments hereinafter set forth.

III. Payments

A. **Maximum Amount.** The amount the Department shall be obligated to pay for services rendered under this contract shall not exceed **\$72,475.00**, for the contract term in full consideration of Agency's performance of the services described in this contract.

B. **Rate of Payment.** The Department shall reimburse Agency in accordance with the reimbursement procedures set forth in Title 14, California Code of Regulations Section 6593.9.

C. Submission of Claims. Agency shall submit claims for reimbursement to the Department contact person identified in paragraph V of this contract on a ___monthly OR ___quarterly basis. (Please check one)

D. Failure to Submit Claims. Claims for reimbursement shall be submitted within 60 days following the last day of the reporting period. Pursuant to Title 14, California Code of Regulations 6593.9 (i), the Department may reduce an Agency's allocation by five percent if the Agency exceeds the sixty-day billing period and an additional five percent for every thirty-day period thereafter that the Agency is late in filing a claim.

IV. Records

Agency shall maintain records pursuant to Section 6593.10 of Title 14, California Code of Regulations.

V. Notice

Notice shall be in writing and shall be deemed to have been served when it is deposited in the United States mail, first class postage prepaid, and addressed as follows:

TO DEPARTMENT

Ms. Corrina Dugger
Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, CA 95815-3888

TO AGENCY

PLACER COUNTY SHERIFF
2929 RICHARDSON DR.
AUBURN CA 95603

Either party may change the address to which subsequent notice and/or other communication can be sent by giving written notice designating a change of address to the other party.

VI. Term

This agreement shall be for the term beginning **July 1, 2008**, and ending **June 30, 2009**.

VII. Prior Agreements

All prior contracts regarding this subject matter between Department and Agency are hereby terminated effective June 30 prior to the term beginning date of this contract.

VIII. Amendment

No amendment or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto.

IX. Termination

Agency may terminate this contract without cause in writing at any time. Department may terminate this contract without cause upon a sixty (60) days written notice served upon the Agency.

X. Special Provisions

- A. Agency hereby certifies that the obligations created by this contract do not violate the provisions of Sections 1090 to 1096 of the Government Code.
- B. This contract shall have no force or effect until signed by the Department, AND Agency.
- C. Agency shall continue with the responsibilities of this contract during any dispute.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS

By: _____

Raynor Tsuneyoshi, Director
California Department of Boating and Waterways

Date: _____

"Department"

COUNTY OF PLACER

By: _____

Title: SHERIFF-CORONER-MARSHAL

Date: _____

"Agency"

Attachment I Harbors and Navigation Code Section 663.7

663.7. Boating safety and enforcement aid program. (a) Each county of the state is entitled to receive state financial aid for boating safety and enforcement programs on waters under its jurisdiction as provided in this section. A boating safety and enforcement program, as used in this section, includes search and rescue operations, recovery of drowned bodies, enforcement of state and local measures for regulation of boating activities, inspection of vessels, and supervision of organized water events.

(b) A public agency within a county and the Department of Parks and Recreation are entitled to receive aid for boating safety and enforcement programs on waters under their jurisdiction through the county in which it lies, and that aid shall be counted as aid to the county; except that aid provided under subdivision (h) for boating safety and enforcement programs of the Department of Parks and Recreation for waters under its jurisdiction shall not be counted as aid to a county.

(c) (1) Of the funds appropriated for boating safety and enforcement programs pursuant to section 85.2, the department shall adopt and utilize a formula that first allocates funds to counties so that no county receives less than the amount it was allocated in the 1996-97 fiscal year, unless the county's program is reduced, or the county does not meet the eligibility requirements of this section. If the total amount of money in the Harbors and Watercraft Revolving Fund is less than the amount available for the 1996-97 fiscal year, the funds allocated to each county shall be reduced in proportion to the reduction in the overall fund relative to the 1996-97 fiscal year.

(2) Second, from funds remaining, the department shall allocate funds to eligible counties which have submitted a grant application pursuant to subdivision (i) but which do not receive an allocation pursuant to paragraph (1).

(3) The funds allocated pursuant to paragraph (1) shall not be greater in total amount than 50 percent of the funds appropriated for boating safety programs, unless the department determines that an amount greater than 50 percent is needed to meet the minimum allocation requirements set forth in paragraph (1).

(d) The amount of aid for which a county or a public agency within a county is eligible under this section shall not exceed the total cost of its boating safety and enforcement program. Notwithstanding paragraph (1) of subdivision (c), no county shall receive an amount greater than 20 percent of the total funds appropriated to all counties for boating safety and enforcement programs in any fiscal year. Notwithstanding any other provision of this section, any county that receives a boating safety and enforcement allocation during the 1997-98 fiscal year as a result of a prior appropriation shall not receive an additional allocation for the 1997-98 fiscal year pursuant to this section.

(e) The department shall not allocate funds to any county or a public agency within a county unless the department receives a resolution adopted annually by the board of supervisors authorizing the county to participate in the program and certifying that the county will expend for boating safety programs during that year not less than an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels. The money allocated to a county pursuant to subdivision (a) shall be used only for boating safety and enforcement programs, as specified in subdivision (a), that are conducted in that county.

(f) Any county that receives an allocation of funds pursuant to subdivision (c) shall submit a report to the department on or before 60 days after the end of the fiscal year that provides all of the following:

(1) The purpose for which funds received in the immediately preceding fiscal year were spent.

(2) The total amount expended on boating safety and enforcement programs in the immediately preceding fiscal year.

(3) All pertinent boating safety and enforcement and accident statistics from the immediately preceding fiscal year.

(4) All other data that may be required by the department relating to improved boating safety in California.

(g) The department shall provide in its biennial report to the Legislature a summary of boating safety activities undertaken by the counties receiving financial aid from the department in the immediately preceding two fiscal years along with a summary of the information received pursuant to subdivision (f).

(h) Aid for boating safety and enforcement programs shall be made available to the Department of Parks and Recreation for waters under its jurisdiction in accordance with a boat entry unit cost factor derived by dividing the most recent annual boat entry count into the maximum amount available and appropriated for those programs in the 1969-70 fiscal year. Budgets for those programs shall be estimated for each fiscal year and adjustments shall be made thereto for the previous year in accordance with the actual boat entry count as it becomes available multiplied by the boat entry unit cost factor. The amount thus determined shall be available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund.

(i) Entities or agencies desiring aid under this section shall submit grant applications to the department at least six months prior to the period for which aid is required. Grant applications shall be in the form and contain the information that the department may require.

(j) Within 60 days after the close of any period for which aid is received, the entity or agency shall submit to the department a statement of the expenditures actually incurred, in the form and containing the information that the department may require.

(k) The department shall be responsible for the administration of this section, and may adopt rules and regulations that may be necessary to carry out its provisions. The department shall make periodic evaluations of the effectiveness of programs receiving aid under this section.

California Code of Regulations
Title 14. Natural Resources
Division 4. Department of Boating and Waterways
Chapter 1. Department of Boating and Waterways
Article 4.5.1 Boating Safety and Enforcement Financial Aid Program

6593. Short Title.

This article shall be known and may be cited as the Boating Safety and Enforcement Financial Aid Program Regulations under which the Department of Boating and Waterways may provide State financial aid to local agencies' qualified boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.1. Purpose.

The purpose of the Boating Safety and Enforcement Financial Aid Program is to augment a participating agency's revenues for boating safety and enforcement activities when an agency incurs boating safety and enforcement program costs that exceed actual vessel taxes received by the county for boating safety and enforcement activities. The program is not intended to fully fund a participating agency's boating safety and enforcement activities, and agency participation in the program is entirely voluntary.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.2. Definitions.

The following definitions shall be used in this article.

(a) "Administrative costs" are the costs incurred by a participating agency for indirect services necessary for the operation of a participating agency's boating safety and enforcement program.

(b) "Agency" means a county of the State, or a city, district or other public agency within a county, that participates, or applies to participate, in the Boating Safety and Enforcement Financial Aid Program.

(c) "Allowable costs or expenses" means the costs or expenditures made by a participating agency that are authorized by the department.

(d) "Baseline financial aid eligibility allocation" means a participating agency's financial eligibility allocation as described in Section 6593.7 of this article.

(e) "Boat patrol" means a boating safety and enforcement unit of qualified boating safety and enforcement officers (full-time or seasonal).

(f) "Boating safety and enforcement officer" means trained personnel authorized and retained by a participating agency to perform boating safety and enforcement activities.

(g) "Boating safety programs" and "boating safety and enforcement programs" are participating agency programs comprised of boating safety and enforcement activities.

(h) "Calendar year" means the period of twelve consecutive months that runs from January 1 through December 31 of the same year.

(i) "Department" means the California Department of Boating and Waterways, unless otherwise specified.

(j) "Equipment" means boating-specific equipment or other support equipment used to implement or conduct boating safety and enforcement activities.

(k) "Fiscal year" means the period of twelve consecutive months that runs from July 1 of one year through June 30 of the following year.

(l) "Fringe benefits percent" is the percentage used by the participating or applicant agency to estimate the costs of non-salary benefits for an employee, such as workers' compensation premiums, retirement contributions, uniform allowances, insurance, payments made under the Federal Insurance Contributions Act, and any other employee benefit approved by the department. The percent is expressed as a percentage of direct salary costs and is calculated by dividing the fringe benefits cost by the direct salary cost of an employee.

(m) "Mid-range or equivalent journeyman level average hourly pay" is the average hourly pay for a typical employee of an applicant agency. The mid-range is used if there are an odd number of pay steps or an equivalent is used if there is an even number of pay steps. An equivalent is calculated by averaging the two middle pay steps.

(n) "Quarter" means a period of three consecutive months during the fiscal year. The quarters of the State's fiscal year are comprised of four consecutive three-month segments, as noted below.

- (1) Quarter 1 = July 1 through September 30
- (2) Quarter 2 = October 1 through December 31
- (3) Quarter 3 = January 1 through March 31, and
- (4) Quarter 4 = April 1 through June 30.

(o) "Program reduction" means a reduction in a participating agency's annual allocation due to insufficient program expenditures as described in Section 6593.7 of this article.

(p) "Unallocated funds" are funds that have not been spent or used by participating agencies' boating safety and enforcement programs pursuant to section 6593.7(c) of this article.

(q) "Vessel taxes received by the county" are funds equal to 100 percent of the amount received by the county from the share of personal property taxes on vessels allocated to the County General Fund for boating safety and enforcement activities.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.3. Boating Safety and Enforcement Activities.

For the purposes of receiving State financial aid under Section 663.7 of the Harbors and Navigation Code, boating safety and enforcement activities include:

(a) Enforcement of State and local laws and regulations for boating activities by means of vessel, foot patrol, motor vehicle, or aircraft. Educating the public on State and local laws and regulations is included as enforcement.

(b) Inspection of vessels for compliance with required safety equipment, registration requirements, and sanitation and pollution control that satisfy the intent of State law.

(c) Supervision of organized on-the-water boating activities or water events that allows for the protection and safety of the boating public during such activities or events.

(d) Search and rescue operations originating from on-the-water boating activities, including the recovery of drowned bodies that are the result of boating activities.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.4. Eligibility.

Agencies requesting permission to participate are entitled to receive State financial aid for boating safety and enforcement programs on waters under their jurisdiction, provided the following conditions are satisfied:

(a) An applicant agency provides a certified copy of the resolution or minute order from the county board of supervisors with the application for financial aid under the provisions of Section 663.7 of the Harbors and Navigation Code.

(1) In the case of a local government agency within a county, a certified copy of the resolution or minute order shall accompany the application for financial aid from that local government entity, as well as a certified copy of the resolution or minute order from its county board of supervisors, authorizing the agency to participate in the program.

(2) The resolution or minute order shall:

(A) Authorize the chairperson, or designated representative, to sign the application and contract.

(B) Authorize the chairperson, or designated agency representative, to sign the department's form for each reimbursement claim.

(C) Authorize the county auditor to certify the amount of prior year vessel taxes received by the county.

(3) The department may deny the application if the applicant agency fails to provide the above-referenced information or data.

(b) An applicant agency submits a completed application that complies with the requirements of Section 6593.5.

(c) The county in which an applicant agency resides agrees to spend an amount equal to 100 percent of vessel taxes received by the county for boating safety and enforcement activities prior to the agency receiving State financial aid under this program.

(d) An applicant agency maintains an operational boat patrol while receiving State financial aid under this program.

(e) An applicant agency agrees to comply with the reimbursement process in Section 6593.9.

(f) An applicant agency agrees to comply with the reporting requirements in Section 663.7 of the Harbors and Navigation Code.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.5. Application.

(a) An agency applying for financial aid under the Boating Safety and Enforcement Financial Aid Program shall complete an annual application. The annual Boating Safety and Enforcement Financial Aid Program application for a county shall accompany all applications from other governmental agencies within the county requesting aid from the department.

(b) The application shall include, at a minimum, the following estimates for waterways under the jurisdiction of each applicant agency:

- Size of waterway(s) (in square miles for lakes and in miles for rivers or coastline)
- Usage of waterway(s) (types of boating activities)
- Types of patrols (on-water, foot, truck/vehicle, and/or air)
- Workload seasonality adjustments (unusual increases/decreases in staffing)
- Number of boats on the waterways.

(c) A participating agency shall submit a completed application to the department at least six months prior to the start of the fiscal year for which State financial aid is requested. A new applicant agency shall submit a completed application to the department at least 14 months prior to the start of the fiscal year for which State financial aid is requested.

(d) Subsequent to the expiration of the filing date, amendments to the applications shall be allowed only subject to the approval of the department.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.6. Annual Contract.

(a) Beginning in fiscal year 2003-04, every participating agency shall enter into an annual contract with the department prior to the start of the fiscal year. The contract shall indicate, at a minimum, the financial aid eligibility allocation amount for the ensuing fiscal year and whether a participating agency is to submit reimbursement claims on a monthly or quarterly basis.

(b) The department shall send every participating agency a contract at least 90 days prior to the start of the fiscal year. A participating agency shall sign and return the contract to the department at least 15 days prior to the start of the fiscal year. Failure of a participating agency to sign and return the contract 15 days prior to the start of the fiscal year may result in a participating agency losing its financial aid eligibility allocation for that fiscal year.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.7. Financial Eligibility Formula.

The following formula shall be used for determining annual maximum eligibility allocation amounts for a participating agency eligible for State financial aid under the Boating Safety and Enforcement Financial Aid Program. The State boating safety and enforcement program financial eligibility allocation shall include total State boating safety and enforcement program financial aid for all public entities within a county.

(a) A county that received an allocation in fiscal year 1996-97 shall receive, at a minimum, the amount of the fiscal year 1996-97 allocation, unless the county's program has been reduced by the county or the State. This fiscal year 1996-97 amount is defined as the baseline State financial eligibility allocation. (See Exhibit 1 in Section 6593.11 - *Baseline State Financial Eligibility Allocations*)

(b) A county that received an allocation subsequent to fiscal year 1996-97 but prior to fiscal year 2003-04 shall receive, at a minimum, the amount of the most recent fiscal year allocation, unless the county's program has been reduced. This amount is also defined as the baseline State financial eligibility allocation and is likewise shown in Exhibit 1 in Section 6593.11.

(c) Beginning with fiscal year 2005-06 and continuing with each fiscal year thereafter:

(1) A participating agency that spends less than its baseline State financial eligibility allocation in both calendar year 2003 and calendar year 2004 shall have its eligibility allocation reduced in fiscal year 2005-06. The reduced eligibility allocation amount shall equal the higher amount spent in either calendar year 2003 or calendar year 2004. (See Exhibit 2 in Section 6593.11 - *Example of Program Reduction*)

(2) A participating agency that spends less than its baseline State financial eligibility allocation during a calendar year period, in the two most recent calendar years, shall have its eligibility allocation reduced in the next fiscal year. The revised eligibility allocation amount shall equal the higher amount spent during one of the two most recent calendar years.

(3) Unallocated funds as a result of (1) or (2) shall be reallocated on an annual one-time basis to those participating agencies that incurred expenditures exceeding their baseline eligibility allocations during the most recent calendar year. These unallocated funds shall be allocated on a prorated basis to participating agencies based on the individual participating agency's expenditures that exceeded baseline eligibility allocations divided by the total statewide expenditures that exceeded baseline eligibility allocations applied to the total statewide unallocated funds. Under no circumstances shall a participating agency receive more than 20 percent of the total funds appropriated to all participating agencies for boating safety and enforcement programs. The total amount of funds that are reallocated shall not exceed the amount of the total statewide surplus. The reallocated funds shall be treated as a one-time reallocation of unspent funds. (See Exhibit 3 in Section 6593.11 - *Example of Reallocation of Unspent Funds*)

(d) Beginning with fiscal year 2003-04 and continuing with each fiscal year thereafter, the formula for a new, non-participating applicant agency applying to the program shall be as follows, provided that sufficient funds are appropriated specifically for new agencies:

Total Estimated Boating Safety and Enforcement Costs
Less Vessel Taxes Received by the county
Equals State Financial Eligibility Allocation

(1) Total Estimated Boating Safety and Enforcement Costs shall be based on the estimated work-hours of patrol required for boating safety and enforcement activities. Each agency shall justify the estimated number of work hours of patrol by documenting various operations data as part of the application.

(2) The number of work hours shall be multiplied by either the agency's actual hourly pay of boating safety and enforcement officers, or the agency's mid-range or equivalent (i.e., third of five pay steps) journeyman level average hourly pay, and either the agency's actual fringe benefit percent for boating safety and enforcement officers, or the agency's customary average fringe benefits percent, to estimate total personnel costs. This total personnel costs amount shall be multiplied by 30 percent to estimate associated operations, maintenance, and equipment costs. The sum of total personnel costs, and associated operations, maintenance, and equipment costs, shall equal estimated boating safety and enforcement direct costs, which may be increased by up to 5 (five) percent for allowable administrative costs to determine the total estimated boating safety and enforcement costs. These total estimated costs shall be offset by the actual prior year vessel taxes received by the county to determine the net amount of State financial eligibility allocation. (See Exhibit 4 in Section 6593.11 - *Example of New Program Calculation*)

(3) Each agency applying for financial aid under this section shall submit documentation supporting its calculations as requested by the department. The first-year eligibility allocation for any new agency applying to the program shall be considered that agency's baseline State financial eligibility allocation.

(e) Beginning with fiscal year 2004-05 and continuing with each fiscal year thereafter, a participating agency that demonstrates that its expenditures exceed its

baseline State financial eligibility allocations may be eligible for any additional funds appropriated for expansion of existing participating agencies' boating safety and enforcement programs. Any additional funds allocated to a participating agency under this subsection shall be treated as a program increase to the participating agency's baseline State financial eligibility allocation.

(f) Beginning with fiscal year 2004-05 and continuing with each fiscal year thereafter, if funds budgeted for the boating safety and enforcement program are less than the sum of the prior year's individual participating agency allocations, each individual participating agency may have its eligibility allocation reduced in proportion to the overall program shortfall. (See Exhibit 5 in Section 6593.11 – *Example of Fund Shortfall Calculation*)

NOTE: Authority Cited: Section 663.7 (c), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.8. Allowable and Non-Allowable Costs.

Beginning in fiscal year 2003-04, all program expenditures under this program shall be spent on personnel and operations, maintenance, and equipment that are used by a participating agency's boat patrol when conducting boating safety and enforcement activities, and administrative costs attributable to a participating agency's boating safety and enforcement program. All program expenditures, including those made with vessel taxes received by the county, shall comply with the requirements of this section.

(a) The following are allowable costs under the program:

(1) Personnel costs of boating safety and enforcement officers, including, but not limited to, salaries, wages, overtime and holiday pay, differential pay, on-call pay, workers' compensation premiums, retirement contributions, uniform allowances, insurance, payments made under the Federal Insurance Contributions Act, and any other employee benefit approved by the department.

(2) Operations, maintenance, and equipment costs, including, but not limited to, fuel; vessel, vessel trailer and equipment repair; storage of vessels, vessel trailers and equipment; vehicle mileage for vehicles used to tow vessels; hull insurance for vessels; communications equipment for items to be attached or mounted to a vessel or vehicle; per diem and other costs associated with non-POST (California Commission on Peace Officer Standards and Training) boating safety and enforcement training; per diem costs associated with overnight boating safety and enforcement assignments that occur at least 50 miles from the main headquarters; dive gear; utilities (including gas, electricity, water, land-based telephone service, and propane charges), office rental and leases, and office equipment for a boat patrol office located in a geographically separate location than the main headquarters; prorated share of vehicle and aircraft leases; and miscellaneous boating equipment.

(3) Administrative costs attributable to a participating agency's boating safety and enforcement program provided such administrative costs are not more than five percent of the total allowable direct program costs.

(4) A participating agency shall provide written justification and obtain prior written approval from the department in order to be reimbursed for the following costs:

- (A) Purchase of communications equipment or the rental or leasing of office space.
- (B) Any non-POST training course that an employee of a participating agency plans to attend.
- (C) Prorated share of leased vehicles and aircraft.
- (D) Out-of-state travel.

(b) The following are not allowable costs under the program:

- (1) Any cost, either in its entirety or a prorated share, not associated with a participating agency's boating safety and enforcement program.
- (2) The purchase of any type of vessel, vessel trailer, vehicle, or aircraft with State funds. Note: the department administers a financial assistance program for purchase of vessels outside of the boating safety and enforcement program. A participating agency may use vessel taxes received by the county for the purchase, or a prorated share of the purchase, of any type of vessel, vessel trailer, vehicle, or aircraft provided such equipment is dedicated solely, or on a prorated basis, for boating safety and enforcement activities.
- (3) The general costs necessary in employing, outfitting with weapons, and training personnel in accordance with prescribed statutes affecting peace officers, including, but not limited to, drug screening tests, background checks, psychological testing, fingerprinting fees, law enforcement training unrelated to boating safety and enforcement activities, and training in weaponry.
- (4) One-time payments for vacation, sick leave, or compensation time off in lieu of overtime due to separation or medical causes.
- (5) Any administrative or overhead costs that exceed five percent of the total allowable direct program costs of a participating agency's boating safety and enforcement program.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.9. Reimbursement Procedures.

Beginning in fiscal year 2003-04, the following procedures shall be used to reimburse a participating agency for allowable expenditures under the Boating Safety and Enforcement Financial Aid Program. A participating agency may only receive State reimbursement under this program when actual allowable expenditures on boating safety and enforcement activities exceed actual prior year vessel taxes received by the county.

(a) The department shall provide financial aid, under Section 663.7 of the Harbors and Navigation Code, in the form of reimbursements to cover the costs incurred by a participating agency for boating safety and enforcement activities that exceed vessel taxes received by the county, up to the participating agency's State financial eligibility allocation amount. Reimbursements shall equal the actual amount of allowable costs incurred by a participating agency over and above the actual prior year vessel taxes received by the county, up to the State financial eligibility allocation amount.

(b) A participating agency shall submit claims to the department for the purpose of reimbursement under this program. Claims may be submitted by a participating agency on a monthly or quarterly basis as specified in the annual contract. A participating agency shall submit claims indicating actual costs incurred during the month or quarter and total year-to-date actual costs. Claims shall be submitted irrespective of whether State financial aid is reimbursed to the participating agency during the month or quarter.

(c) Personnel costs shall be reimbursed based on the actual number of hours spent on boating safety and enforcement activities, including associated sick leave, vacation, and compensatory time off, during the month or quarter by each boating safety and enforcement officer of the participating agency. Actual hours, and associated sick leave, vacation, and compensatory time off, for each boating safety and enforcement officer shall be multiplied by the boating safety and enforcement officer's hourly pay to determine direct salary costs. Direct salary costs are multiplied by the participating agency's customary average fringe benefits percent to determine total personnel costs.

(d) Associated operations, maintenance, and equipment costs shall be reimbursed based on actual costs.

(e) Administrative costs attributable to a participating agency's boating safety and enforcement program may either be directly identified or indirectly allocated to the program.

(1) Administrative personnel costs directly identified to a participating agency's boating safety and enforcement program shall be reimbursed based on the actual number of hours spent on administrative activities related to boating safety and enforcement activities during the month or quarter. Actual hours for each administrative staff shall be multiplied by the staff's hourly pay to determine administrative salary costs. Administrative salary costs are multiplied by the participating agency's customary average fringe benefits percent to determine administrative personnel costs.

(2) Administrative costs that are not readily assignable to a participating agency's boating safety and enforcement program, but are necessary for the operation of the participating agency, shall be identified through the use of an Indirect Cost Rate Proposal (ICRP), a formal allocation method. It is recommended but not required that participating agencies using this indirect method obtain the following federal publication: Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." This publication explains how indirect costs may be handled. This publication is available from the department.

(f) Year-to-date allowable costs shall be offset by annual actual prior year vessel taxes received by the county and year-to-date State financial aid reimbursements to determine the amount of State financial aid on a claim. If actual prior year vessel taxes received by the county have not been expended on boating safety and enforcement activities, a participating agency shall not receive State financial aid during that month or quarter.

(g) The department shall conduct a review of each claim for accuracy, completeness, and applicability to the program. The department may request additional supporting information from a participating agency for justification of expenditures prior to

approving a participating agency's claim. Claims that result in reimbursement to a participating agency shall be forwarded to the State Controller's Office for payment once the department has completed the review and approved the claim for payment.

(h) Any expenditure omitted by a participating agency from a claim for State financial aid may be submitted by a participating agency for reimbursement with any succeeding claim within 60 days following the last day of the fiscal year.

(1) The issue date of a purchase order, invoice date, or day in which the hours were worked determines the fiscal year in which expenditures occur for the purposes of submitting claims. Date of payment, date received, shipping date, and date of invoice received are not factors in determining the fiscal year in which expenditure is made.

(2) If the cost of utilities overlaps fiscal years, the total cost may be claimed in either fiscal year.

(i) Claims for reimbursement for State financial aid shall be submitted within 60 days following the last day of the monthly or quarterly reporting period. The department may reduce a participating agency's total State financial aid allocation by five percent if the participating agency exceeds the sixty-day billing period and an additional five percent for every thirty-day period thereafter that the participating agency is late in filing a claim for State financial aid.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.10. Audits and Appeals.

(a) The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of State funds. The department may conduct periodic systematic audits of a participating agency in order to determine whether an agency is in compliance with State law and the claims submitted by a participating agency accurately represent the amount due the agency under the Boating Safety and Enforcement Financial Aid Program.

(b) The department shall notify a participating agency in writing at least one week in advance of all scheduled audits.

(c) A participating agency shall make records available for review to the department or its representatives. A participating agency shall maintain records deemed necessary by the department for a minimum of five years and shall include, at a minimum, supporting documentation for any claims for reimbursement by the participating agency. Such records shall include actual hours spent on the program (including the name and classification of each employee and the specific boating safety and enforcement activity for which the hours relate), documents supporting the actual salaries used to determine personnel costs, documents supporting the participating agency's customary fringe benefits percentage, receipts for associated operations, maintenance, and equipment costs, equipment maintenance and repair reports, current equipment inventory report, documentation supporting actual vessel taxes received by the county, and other applicable documentation as requested by the Department.

(d) The audit shall include an evaluation of the accounting and control systems of the participating agency.

(e) If the department conducts an audit of a participating agency, the department shall issue an audit report to the participating agency. The audit report shall include a description of how the audit was performed and a summary of audit exceptions and management improvement recommendations. If applicable, a correction plan shall be discussed with the participating agency describing the specific actions that are recommended to be taken, or that have been taken, to correct the deficiencies identified by the department. Future State financial aid payments may be withheld from the participating agency until the deficiencies have been corrected.

(f) When an audit indicates that a participating agency has claimed and received payments from the department under this program to which it is not entitled, the participating agency shall pay, in addition to that portion of the claim that was improperly claimed, interest on the amount of overpayment from the date in which the amount was improperly claimed to the next claim. The overpayment, plus interest, may be repaid through a reduction to the next claim for State financial aid. The interest rate shall equal the monthly average rate received on investments in the State Surplus Money Investment Fund.

(g) When it is established that a participating agency fraudulently claimed and received payments under this program, the participating agency shall pay, in addition to that portion of the claim that was improperly claimed, a penalty of 300 percent of the amount improperly claimed. Payments due from a participating agency may be recovered through an offset to the next claim(s) for State financial aid.

(h) A participating agency has the right to appeal the findings of any audit to the director of the department in writing within 90 days after completion of the audit report. The participating agency shall include in the written appeal a description of the items in question and the participating agency's reason for the appeal. The appeal process shall commence with a conference between a representative of the department and the participating agency to review the items in question. If the appeal is not resolved to the participating agency's satisfaction, the participating agency may request that the matter be reviewed through a formal hearing conducted in accordance with Government Code Section 11500 et seq.

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.11. Exhibits.

This section contains the Exhibits referenced in Section 6593.7.

Exhibit I – Baseline State Financial Eligibility Allocations

County	FY 1996-97 State Financial Eligibility Allocation	Subsequent Program Reductions	Allocation Subsequent to FY 1996-97 but Prior to FY 2003-04	Baseline State Financial Eligibility Allocation
1. Amador County	\$95,781			\$95,781
2. Butte County			\$148,069	148,069
3. Calaveras County	159,868			159,868
4. Colusa County	96,091			96,091
5. Contra Costa County	379,713			379,713
6. Del Norte County	130,775			130,775
7. El Dorado County	309,479			309,479
8. Fresno County	356,210			356,210
9. Glenn County	108,111			108,111
10. Humboldt County	110,313			110,313
11. Imperial County	223,536			223,536
12. Kings County			67,428	67,428
13. Lake County	271,380			271,380
14. Lassen County	91,912			91,912
15. Los Angeles County	1,500,000			1,500,000
16. Mariposa County	213,873			213,873
17. Mono County	101,444			101,444
18. Napa County	246,087			246,087
19. Nevada County	83,243			83,243
20. Placer County	52,916			52,916
21. Plumas County	118,687			118,687
22. Sacramento County			370,000	370,000
23. San Bernardino County			190,000	190,000
24. San Joaquin County	376,279			376,279
25. Shasta County	523,567			523,567
26. Sierra County	57,088			57,088
27. Siskiyou County	71,489			71,489
28. Solano County	232,444			232,444
29. Sonoma County	263,226			263,226
30. Sutter County	167,584			167,584
31. Tehama County	120,000			120,000
32. Trinity County	106,714			106,714
33. Tulare County	174,132			174,132
34. Tuolumne County	215,880			215,880
35. Yolo County	225,776			225,776
36. Yuba County	140,905			140,905
Total	\$7,324,503	\$0	\$775,497	\$8,100,000

Exhibit 2 – Example of Program Reduction

	Agency A	Agency B
Baseline State Financial Eligibility Allocation (SFEA) – FY 2004-05	\$100,000	\$100,000
Calendar Year 2003 Expenditures	90,000	95,000
Calendar Year 2004 Expenditures	95,000	90,000
FY 2005-06 SFEA	95,000	95,000

Exhibit 3 – Example of Reallocation of Unspent Funds

	Agency C	Rest of Agencies	Total
Baseline State Financial Eligibility Allocation (SFEA) - FY 2004-05	\$100,000	\$8,000,000	\$8,100,000
Calendar Year 2004 Deficit	-10,000	-390,000	-400,000
Percent of Statewide Deficit	2.5%	97.5%	100%
Unallocated Funds		100,000	100,000
Reallocation of Funds	<u>2,500</u>	<u>97,500</u>	<u>100,000</u>
FY 2005-06 SFEA	\$102,500	\$7,997,500	\$8,100,000
Calendar Year 2005 Deficit	-10,000	-90,000	-100,000
Percent of Statewide Deficit	10.0%	90.0%	100%
Unallocated Funds		10,000	10,000
Reallocation of Funds	<u>1,000</u>	<u>9,000</u>	<u>10,000</u>
FY 2006-07 SFEA	\$101,000	\$7,999,000	\$8,100,000

Exhibit 4 – Example of New Program Calculation

	Total Estimated Boating Safety and Enforcement Costs	
Provided by Agency	1. Estimated Work Hours	1,300
Provided by Agency	2. Hourly Pay	\$25.00
Provided by Agency	3. Fringe Benefits Percent	33%
Product of Lines 1-3	4. Total Personnel Costs	\$43,225
Determined by DBW	5. Associated Operations, Maintenance & Equipment Ratio	30%
Line 4 times Line 5	6. Associated Operations, Maintenance & Equipment Costs	\$12,968
Line 4 plus Line 6	7. Estimated Boating Safety and Enforcement Direct Costs	\$56,193
Line 7 times 5%	8. Maximum Allowable Administrative Costs	\$2,810
Line 7 plus Line 8	9. Total Estimated Boating Safety and Enforcement Costs	\$59,003
Provided by Agency	Less Vessel Taxes Received by the county	(9,003)
	FY 2003-04 Baseline State Financial Eligibility Allocation	\$50,000

Exhibit 5 – Example of Fund Shortfall Calculation

Participating Agency	Baseline State Financial Eligibility Allocation (SFEA)	Percent of Baseline SFEA	State Financial Eligibility Allocation Reduction	FY 2004-05 State Financial Eligibility Allocation
1. Amador County	\$95,781	1.2%	\$7,200	\$88,581
2. Butte County	148,069	1.8%	10,800	137,269
3. Calaveras County	159,868	2.0%	12,000	147,868
4. Colusa County	96,091	1.2%	7,200	88,891
5. Contra Costa County	379,713	4.7%	28,200	351,513
6. Del Norte County	130,775	1.6%	9,600	121,175
7. El Dorado County	261,766	3.2%	19,200	242,566
8. Fresno County	356,210	4.4%	26,400	329,810
9. Glenn County	108,111	1.3%	7,800	100,311
10. Humboldt County	110,313	1.4%	8,400	101,913
11. Imperial County	223,536	2.8%	16,800	206,736
12. Kings County	67,428	0.8%	4,800	62,628
13. Lake County	271,380	3.4%	20,400	250,980
14. Lassen County	91,912	1.1%	6,600	85,312
15. Los Angeles County	1,500,000	18.5%	111,000	1,389,000
16. Mariposa County	213,873	2.6%	15,600	198,273
17. Mono County	101,444	1.3%	7,800	93,644
18. Napa County	246,087	3.0%	18,000	228,087
19. Nevada County	83,243	1.0%	6,000	77,243
20. Placer County	52,916	0.7%	4,200	48,716
21. Plumas County	118,687	1.5%	9,000	109,687
22. Sacramento County	370,000	4.6%	27,600	342,400
23. San Bernardino County	190,000	2.3%	13,800	176,200
24. San Joaquin County	376,279	4.6%	27,600	348,679
25. Shasta County	523,567	6.5%	39,000	484,567
26. Sierra County	57,088	0.7%	4,200	52,888
27. Siskiyou County	71,489	0.9%	5,400	66,089
28. Solano County	193,103	2.4%	14,400	178,703
29. Sonoma County	263,226	3.2%	19,200	244,026
30. So. Lake Tahoe City	47,713	0.6%	3,600	44,113
31. Suisun City	39,341	0.5%	3,000	36,341
32. Sutter County	167,584	2.1%	12,600	154,984
33. Tehama County	120,000	1.5%	9,000	111,000
34. Trinity County	106,714	1.3%	7,800	98,914
35. Tulare County	174,132	2.1%	12,600	161,532
36. Tuolumne County	215,880	2.7%	16,200	199,680
37. Yolo County	225,776	2.8%	16,800	208,976
38. Yuba County	140,905	1.7%	10,200	130,705
Total	\$8,100,000	100.0%	\$600,000	\$7,500,000
Amount in Fund for FY 2004-05	\$7,500,000			
FY 2004-05 Shortfall	\$600,000			

NOTE: Authority Cited: Section 663.7 (k), Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

