



**FEMA**

August 14, 2014

Mr. Brad Miller  
Director  
Pinellas Suncoast Transit Authority  
3201 Scherer Drive North  
St. Petersburg, FL 33716

Re: Transit Security Grant Program Award EMW-2011-RA-00090

Dear Mr. Miller:

The purpose of this letter is to report the results of a review conducted by the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), of the Pinellas Suncoast Transit Authority's (PSTA) Fiscal Year (FY) 2011 grant award under the Transit Security Grant Program (TSGP) Award Number: EMW-2011-RA-00090. Based on this review, and as explained below, FEMA has determined that PSTA has charged \$354,090.67 of unallowable costs to this grant award. These costs charged to the grant are hereby disallowed. As described below, PSTA may reimburse FEMA for these disallowed costs, or alternatively, submit other costs to offset the unallowable costs. Note that in the event that PSTA does not reimburse FEMA or offset these costs, FEMA will identify the costs as a potential debt owed to the Federal government.

Further, because FEMA has determined that the expenses related to these advertisements are not properly chargeable to EMW-2011-RA-00090, it is inaccurate to claim that these advertisements are "Paid for in part by a grant from the Department of Homeland Security." Please immediately cease and desist from making the above claim, or any other similarly worded statement, in these advertisements. If PSTA wishes to continue this advertising on its buses, on billboards, and through television, YouTube, radio, and advertisements through any other medium, it must remove all references to DHS funding immediately.

## Background

PSTA applied for, and received, two TSGP awards to complete a two-phased Public Awareness Campaign. In FY 2010, PSTA received a \$96,000 grant award – Award No. 2010-RA-TO-0030 – to conduct "Phase 1" – the development, purchase, and dissemination of brochures and public outreach to promote public awareness – specifically to educate the public of how to identify suspicious activity in connection to PSTA's transit system and who to notify of such suspicious activity. PSTA also intended to identify the region's first response partners through Phase 1 of the Public Awareness Campaign.

In FY 2011, PSTA received a \$439,254 grant award – Award No. EMW-2011-RA-00090 – to conduct "Phase 2" of its Public Awareness Campaign. The purpose of this project was to continue

the Public Awareness Campaign initiated in “Phase 1” through television, radio, billboard, cinema advertising, bus advertising, and newspaper inserts to educate transit passengers, residents, visitors, and employees of the possible threats and emergencies that may occur and so they can work with PSTA and first responders to mitigate any risks.

The intent of the project funded by EMW-2011-RA-00090, according to PSTA’s FY 2011 TSGP project application (Investment Justification No. 1), was to expand upon Phase 1 funded through an FY 2010 grant by enabling PSTA to conduct an anti-terrorism public awareness and education campaign. Specifically, PSTA stated:

Through the implementation of [Phase 1], PSTA sought to improve transit security, identify security-related barriers to transit, and provide for enhanced coordination and communication with our safety and security partners within the community. Phase 1 included employee and first responder training, and grass-roots public outreach.

For Phase 2 of this program, PSTA will work with an advertising agency to develop a mass-media outreach campaign to further promote the public awareness project. This shall include television, radio billboard, cinema advertising, bus advertising, and a newspaper insert. These advertising elements combined with high frequency messaging will enhance the public’s awareness of their role in keeping the community safe.

PSTA also stated in its application:

Phase 1 of this campaign is designed to provide the knowledge so that citizens and employees become more aware of potential events and can play a vital role in identifying these issues to the appropriate first responders. Phase 2 of this campaign will expand the campaign to the public through radio, billboard, cinema advertising, bus advertising, and a newspaper insert.

### **Allowable Uses of Funds Under TSGP**

In accordance with TSGP’s statutory authority at Sec. 1406 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (“9/11 Act”) (6 U.S.C. § 1135), TSGP funds shall be used for “making grants to eligible public transportation agencies for security improvements”. 6 U.S.C. § 1135(a). Among the allowable uses of funds permitted by the 9/11 Act, a recipient may use TSGP funds for “public awareness campaigns for enhanced public transportation security.” 6 U.S.C. § 1135(b)(2)(C). Per the *Fiscal Year 2011 Transit Security Grant Program Guidance and Application Kit* (“FY 2011 Guidance”), TSGP provides funds “to protect critical surface transportation infrastructure and the traveling public from acts of terrorism and to increase the resilience of transit infrastructure.” FY 2011 Guidance, p. 5. Public awareness campaigns funded by TSGP are intended to encourage the active participation of transit passengers and employees in maintaining a secure transit environment through messaging pertaining to unattended bags, evacuation procedures, suspicious activity, and how to notify law enforcement officials.

## PSTA's Costs Are Unallowable Under TSGP

In carrying out the project, PSTA has charged \$354,090.67 to Award No. EMW-2011-RA-00090 for advertising costs. Through a review of the advertisements purchased and publicly disseminated, FEMA has determined that the advertisements purchased were not used in the manner in which PSTA expressly described in its application. The public service campaign did not “[enhance] the public’s awareness of their role in keeping the community safe” and it was not designed to “provide knowledge so that citizens and employees become more aware of potential events” so that they can play a vital role in identifying terrorism and other risks. The advertisements actually developed by PSTA instead merely encouraged public ridership and use of PSTA’s system and included generalized statements regarding the safety of riding PSTA, including the following:

*[Margaret and Victor] know PSTA can take them where they want to go...and get them there safely.”*

*[Eva] knows PSTA cares about her time and security.*

Here is an example of a full script of an advertisement that PSTA charged to EMW-2011-RA-00090:

*Phillip lives at the beach and works downtown.*

*He’s going “green” by taking the bus for his daily commute of his car.*

*PSTA cares about the environment too, with 32 diesel electric hybrid buses in its fleet and more on the way.*

*And it’s not just the environment they’re protecting.*

*Phillip knows PSTA is providing him with safe and secure bus service.*

*And PSTA is working to make it easier to get around the county.*

*To learn more, visit [greenlightpinellas.com](http://greenlightpinellas.com) or PSTA.net.*

According to the *Cost Principles for State, Local, and Indian Tribal Governments*, in order for costs to be allowable under a TSGP grant award, the costs must be “necessary and reasonable for proper and efficient performance and administration” of the Federal award. 2 C.F.R. Part 225, App. A § C.1.a. Moreover, allowable costs must also:

Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

2 C.F.R. Part 225, App. A § C.1.d.

Based on the information summarized above, PSTA has violated the requirements of the 9/11 Act and the FY 11 Guidance that govern its grant agreement. Per the Award Package and Agreement Articles accepted by PSTA, the grantee agreed to comply with all terms and conditions of the grant award, which included the terms of the FY 2011 Guidance, and the Cost Principles at 2 C.F.R. Part 225. Pursuant to 44 C.F.R. § 13.43(a)(2), FEMA is disallowing the costs in the amount of \$354,090.67 that are unallowable and were inappropriately charged to the grant award.

PSTA may reimburse FEMA for these disallowed costs or, alternatively, submit other costs to offset the unallowable costs, provided that those costs were incurred during the grant award's period of performance and otherwise allowable per the terms of PSTA's award.

To reimburse FEMA for unallowable costs, please supply the following information with your payment to one of the addresses also indicated below.

<b>Grantee Name:</b>		
<b>Check #:</b>		
<b>Check Date:</b>		
<b>Total Check Amount: \$</b>		
<b>Grant Number and ACCS Line</b>	<b>Amount</b>	<b>Reason for Return</b>
<b>Total:</b>		

Please use one of the following options to submit payment to FEMA. If ACH or Fed Wire is chosen, please include Grant # and Return Reason in Description filed.

<b>Lockbox Address:</b> FEMA P.O. BOX 530217 ATLANTA, GA 30353-0217	<b>Express Mail for Lockbox:</b> FEMA Bank of America Lockbox Number 530217 1075 Loop Road Atlanta, GA 30337-6002
<b>ACH (Automatic Clearing House)</b> FEMA ABA: 0510-3670-6 Account Number: 540048	<b>Fed Wire</b> Type / Sub Type Code: 1000 Financial Institution: 021030004 TREAS NYC Account #: D-70070002-FEMA

Note that in the event that PSTA does not reimburse FEMA, FEMA will identify the costs as a potential debt owed to the Federal government.

Please also note that even if the debt is paid in full, the United States does not waive its right to pursue any applicable civil or criminal remedies. In addition, the State will be held liable for penalties under the False Claims Act (Title 31 U.S. Code, Sections 3729 through 3733) or other applicable statutes and/or criminal penalties under Title 18 U.S. Code, Sections 286, 287, 1001, and 1002, or other applicable statutes for any knowingly false or frivolous statements, representations, or evidence made or provided. Unless prohibited by law or contract, the State will be refunded any amount paid or deducted from any Federal payments for the debt, if the debt is later waived or terminated.

If you have any questions concerning this matter, please call Tamia Minor at (202) 786-9581.

Sincerely,



Brian E. Kamoie  
Assistant Administrator for Grant Programs

cc: Christopher Logan, Deputy Assistant Administrator, Grant Programs Directorate  
Stacey Street, Director of Grants Operations  
C. Gary Rogers, Acting Director, Preparedness Grants Division  
Alexander R. Mrazik Jr., Branch Chief, Preparedness Grants Division  
Tamia Minor, Program Analyst, Preparedness Grants Division