

RECOMMENDATION SUBMISSION AND RESPONSE FORM

2022 MEU #9

DISCUSSED BY SCPRC	05/20/2022	APPROVED AND IMPLEMENTED	<input type="checkbox"/>	PENDING FURTHER REVIEW	<input type="checkbox"/>
RECEIVED BY SPD	08/17/2022	APPROVED AND PENDING	<input type="checkbox"/>	SPD UNABLE TO IMPLEMENT	<input type="checkbox"/>
RETURNED TO SCPRC	09/09/2024	PARTIAL IMPLEMENTATION	X	DENIED	<input type="checkbox"/>

SCPRC RECOMMENDATION

GO 410.06 Military Equipment Use

SPD policy allows the department to continuously acquire stocks of military equipment without any limit on its total stockpile. SPD policy creates an unlawful exception to AB 481 to allow procurement, acquisition, or purchase of military equipment without approval of the governing body.

Amend GO 410.06(I): Add specific language establishing an upper limit for the quantity of each type of military equipment SPD may possess within a given fiscal year. Remove any language that would allow SPD to procure, acquire, or purchase military equipment without City Council approval, including the following language:

SECTION I. MAINTENANCE OF MILITARY USE SUPPLY LEVELS

~~When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 10% of stock in a calendar year without city council approval to maintain essential availability for the Department's needs.~~ SPD is authorized to acquire additional stock of items listed here from other law enforcement agencies of CalOES in the event of an emergency when approved by the ~~City Council COP or designee.~~ **City Council**

SCPRC RECOMMENDATION RATIONALE

SPD's MEU policy currently states: "When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 10% of stock in a calendar year without city council approval to maintain essential availability for the Department's needs." This language essentially creates an ambiguous lower limit that allows SPD to order up to 10% of its military equipment stock and does not comply with AB 481, which requires all military equipment acquisitions by a law enforcement agency be approved by the governing body without exception.

Conversely to this lower limit, the current policy language allows SPD to acquire "annual procurements" of flashbang grenades, teargas grenades, breaching shotgun rounds, chemical "Pepperball" launchers, and seven different types of drones with no upper limit on the equipment in stock. This concern was raised by community members and the SCPRC before the policy's approval, given the appearance that SPD is "stockpiling munitions" such as that have very specific uses but are highly unlikely to be necessary during any given year. For example, the General Order under Diversionary Devices SPD requests 108 additional 7290M Mini Flash-Bangs via its annual procurement quantities, despite having 108 units in stock, a life expectancy that lasts until used, and only having deployed Diversionary Devices a total of 8 times between December 14, 2021 and April 30, 2022.

Establishing a lower limit would presume no reasonable alternatives exist for achieving officer and civilian safety, thereby disincentivizing the Department from proactively evaluating its inventory for cost-effective alternatives that achieve the same objective. Furthermore, this language allows SPD to continuously stockpile military weapons and equipment on an annual basis upon the City Council's approval of either SPD's annual MEU report or updates to this General Order.

The Commission recommends removing Section I entirely, along with any other language that would be construed to allow SPD to procure, acquire, or purchase military equipment without City Council approval. Additionally, we recommend adding language establishing an upper limit for the quantity of each type of military equipment in SPD's inventory within a given fiscal year.

SPD RESPONSE

GO 410.06 contains language or approval to procure, acquire, or purchase military equipment only with governing body approval.

SPD did not implement an “upper limit” of the amount of equipment procurement. Instead, AB481 requires SPD to report existing inventory and receive approval from the governing body.

Additionally, on 09/05/2023, city council and mayor approved SPD’s 2023 proposed acquisitions and requested notification prior to actual procurement. During the last MEU period, SPD submitted memorandums to the city council, prior to purchase on the following dates:

- 10/18/2023
- 12/26/2023
- 03/26/2024

OTHER CITY DEPARTMENTS

N/A

APPENDIX

N/A