



SOUTH DAKOTA  
HOMELAND SECURITY

# State Homeland Security Program Grant Administrative Manual

Terms and Conditions



Revised January 2020

## Introduction

This manual provides information about the State Homeland Security Program grants administered by the South Dakota Office of Homeland Security. Recommendations for the administration of the grant program are provided by the Homeland Security and Emergency Management Senior Advisory Committee.

The Senior Advisory Committee includes representatives in South Dakota from the Animal Industry Board, Attorney General's Office, Chiefs of Police Association, Department of Environment and Natural Resources, Department of Game, Fish, and Parks, Governor's Office of Tribal Relations, Bureau of Information and Telecommunications, SD Taskforce 1, Department of Agriculture, Department of Health, Department of the Military, Department of Public Safety (Secretariat, Public Information, Fire Marshall's Office, Emergency Management, Driver Licensing, Highway Patrol, Homeland Security), SD Fusion Center, Sheriffs Association, SD Emergency Management Association, State Radio Communications, and the US Department of Homeland Security.

Please contact the Office of Homeland Security for more information.

### **Stefan A. Pluta**

Homeland Security Director

[stefan.pluta@state.sd.us](mailto:stefan.pluta@state.sd.us)

Phone: 605.773.3450

Fax: 605.773.6631

This is a live document. Updates to this manual will be posted on the following website  
[http://dps.sd.gov/homeland\\_security/homeland\\_security\\_grants.aspx](http://dps.sd.gov/homeland_security/homeland_security_grants.aspx)  
or upon request to the SD Office of Homeland Security

## Contents

➤ Changes to the Administrative Manual .....	4
➤ State Homeland Security Grant.....	5
➤ Nonprofit Security Grant.....	5
➤ Electronic Database for Grant Application & Reporting (EDGAR) .....	6
➤ National Preparedness Goal and Core Capabilities .....	6
➤ Law Enforcement Projects .....	8
➤ Grant Requirements.....	9
○ Federal Administrative Requirements.....	11
○ State Administrative Requirements .....	15
• Local Projects.....	19
• Regional Projects .....	20
• State Projects.....	20
• Progress Reports .....	20
• Allowable and Unallowable Costs.....	21
➤ Federal Standard Terms and Conditions 2019.....	22
➤ Appendix A: EDGAR Visual Instructions .....	37
➤ Appendix B: EDGAR Guides	
○ Grant Award Acceptance Step-By-Step Guide.....	48
○ Payment Request Step-By-Step Guide .....	49
○ Progress Report Step-By-Step Guide .....	50

## **Changes to Administrative Manual**

**September 2019**

There are numerous changes to the Administrative Manual. If you are applying for grant funding or have a grant award, read the manual thoroughly. Changes include but are not limited to:

If a region votes to award funding to a regional project, at least 20% of the regional award must be awarded to projects other than the regional project.

Generators and transfer switches will be allowed for emergency operation centers (EOC) or public safety answering points (PSAP) only.

Funding will no longer be awarded for warning sirens.

Starting with grant year 2019, all sub-recipients are required to complete a cyber security assessment between October-December of the grant year.

Warranties and service plans for equipment bought at the time of purchase of the equipment can be reimbursed if cost is reasonable. Extended warranties and service plans (after initial purchase) for equipment can not be reimbursed.

Equipment cannot be transferred to an agency that is not eligible to apply for grant funding.

Radios are allowed for first responder entities only and must be P25 compatible and use VHF format. We will not fund radios or radio equipment for schools, highway departments, hospitals, or other non-first responder entities. AES encryption is allowed for law enforcement only.

Applicants must submit two quotes for equipment; quotes must match the equipment requested on the budget page. For example, if the budget page shows 5 radios requested, the quotes must be for 5 radios.

If a quote is submitted using state contract pricing, only one quote is needed. The quote must state 'State Contract, GSA, or NASPO contract pricing' to satisfy a single quote submission. Do not submit the entire state contract.

Sole source requests must be justified. For example, stating that "a vendor has had great recommendations" and "we use all the time" does not justify using a sole source.

Quotes must be provided on vendor letterhead or vendor receipt. Quotes copied from internet pages without vendor information will not be accepted.

SAM debarment searches are required for any purchases above \$25,000; a copy of the debarment search report must be attached to the application.

A progress report is required for all projects and progress reports are required before reimbursements will be processed.

Review your application for spelling and grammar errors before submission. Excessive errors may disqualify an application.

## **State Homeland Security Grant**

The Office of Homeland Security receives an annual State Homeland Security Program grant, CFDA #97.067, from the US Department of Homeland Security. Awards under this grant must enhance anti-terrorism security efforts. Awards can be for equipment, cyber-security programming, training, or exercises. All recipients of the State Homeland Security Program grant must abide by the policies in this manual.

The State Homeland Security Program grant requires that 80% of the grant be “passed-through” to local sub-recipients and 20% be used for state projects. Up to 5% of the state portion of the grant can be used for administration costs.

Local sub-recipients include public and private non-profit agencies such as county emergency management, sheriff’s offices, police departments, public schools, fire departments, and ambulance services. A portion of the local pass-through is used for statewide special programs including the SD Taskforce 1, Special Weapons and Tactics (SWAT) Training, the SD Fusion Center, and training.

School security projects are limited to public or private, non-profit schools. Schools can request a school security assessment by contacting the Office of Homeland Security. Examples of projects to increase security in schools are access control (electronic entry systems, crash bars, and door locks), barriers (bollards and collapsible gates), intercom systems, panic alarms, and window tint.

State projects include public education such as the “If You See Something, Say Something” campaign; statewide fire and law enforcement training; and requests for equipment, training, or exercises initiated by state agencies.

Acceptance of a grant award by the applicant signifies understanding that portable assets purchased with Homeland Security funding such as vehicles, UTVs, trailers, portable generators, mobile emergency operating commands, etc., *will be made available* for deployment statewide when requested under mutual aid or by the State.

This is a competitive grant and the funding requests must be fully explained and justified. *Applications lacking appropriate justification and lacking a Homeland Security anti-terrorism connection will not be considered.* This grant is not to be used to supplement operating or capital improvement budgets.

Applications can be denied by the SD Office of Homeland Security for any reason.

## **Nonprofit Security Grant**

South Dakota receives funding for non-profit agencies at high risk of a terrorist attack. Applications are not in the EDGAR system; DHS provides application forms for the non-profit grants, CFDA #97.008. While applications are submitted to the SD Office of Homeland Security, awards under this grant are decided at the federal level. The grant process for the Nonprofit Security Grant is separate from the grant process for the State Homeland Security Program grant described below. Contact the SD Office of Homeland Security for more information.

## Electronic Database for Grant Application and Reporting (EDGAR)

Applications, grants awards, reimbursements, and progress reports are administered through the Electronic Database for Grant Application and Reporting (EDGAR) System

The system can be accessed at <https://sddps.intelligrants.com> . You must be pre-approved prior to using the system. Instructions are available on the website.

### National Preparedness Goal

Funding from state Homeland Security grants must be used for projects that follow the National Preparedness Goal, written by the U.S. Department of Homeland Security, as described below.

The National Preparedness Goal is to develop: *“A secure and resilient nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk.”* These risks include events such as terrorist attacks, cyber-attacks, natural disasters, disease pandemics, chemical spills and other manmade hazards, such as active threat.

The National Preparedness Goal describes five mission areas:

**Prevention.** Prevent, avoid or stop an imminent, threatened or actual act of terrorism.

**Protection.** Protect our citizens, residents, visitors, and assets against the greatest threats and hazards in a manner that allows our interests, aspirations, and way of life to thrive.

**Mitigation.** Reduce the loss of life and property by lessening the impact of future disasters.

**Response.** Respond quickly to save lives, protect property and the environment, and meet basic human needs in the aftermath of a catastrophic incident.

**Recovery.** Recover through a focus on the timely restoration, strengthening and revitalization of infrastructure, housing and a sustainable economy, as well as the health, social, cultural, historic and environmental fabric of communities affected by a catastrophic incident.

There are thirty-two activities, called core capabilities or investments. Each state can adopt up to ten core capabilities in its federal grant application. The Office of Homeland Security uses the statewide Threat and Hazard Identification and Risk Assessment (THIRA) and the Stakeholders Preparedness Review (SPR) to prioritize funding for projects. In South Dakota, grant applications will be accepted under the following core capabilities which are summarized below.

#### 1. **Cybersecurity**

Protect (and, if needed, restore) electronic communications systems, information, and services from damage, unauthorized use, and exploitation.

Examples of allowable expenses: equipment, software, training, or exercises to detect and counter malicious electronic activity to protect public critical infrastructure such as Supervisory Control and Data Acquisition (SCADA) systems, governments, and schools.

## 2. **Fire Management and Suppression**

This capability provides support for projects including structural, wildland, and specialized firefighting capabilities to manage and suppress fires of all types, kinds, and complexities while protecting the lives, property, and the environment in the affected area. This capability includes hazmat detection and protection for fire departments.

Examples of allowable expenses: fire department equipment (i.e. jaws of life, hazmat PPE), training, and exercises.

## 3. **Interdiction and Disruption**

This capability enables law enforcement to protect the community by intercepting, delaying, or halting terrorist activities.

Examples of allowable expenses: law enforcement equipment such as ruggedized computers and in-car video cameras, security equipment to protect critical infrastructure, and law enforcement training and exercises with a Homeland Security connection.

## 4. **Operational Communications**

This capability supports the SD Public Safety Communication Council Statewide Plan. Interoperable communication equipment, training, and exercises assure that public safety agencies have the capacity to communicate with both the emergency response community and the affected populations.

Examples of allowable expenses: communication equipment such as radios compatible with the State Radio system, pagers for 1<sup>st</sup> responders, programming, radio signal amplifiers, repeaters, and interoperable communication training and exercises.

## 5. **Operational Coordination**

This capability includes establishing National Incident Management System (NIMS) compliant command, control, and coordination structures to meet basic human needs, stabilize incidents, and transition to recovery.

Examples of allowable expenses: Incident Command System (ICS) Training and exercises, emergency operations center or mobile command equipment.

## 6. **Planning**

Develop operational plans that adequately identify critical objectives, provide a complete and integrated picture of the sequence and scope of the tasks to achieve the objectives, and are implementable within the timeframe contemplated in the plan using available resources.

Examples of allowable expenses: Homeland Security meeting and conference expenses, equipment and software for typing, credentialing, and managing resources.

**7. Public Information and Warning**

This investment includes delivering timely and accurate information to the whole community regarding any threat or hazard, the actions being taken, and the assistance being made available.

Examples of allowable expenses: notification systems for schools, telephonic warning systems, IPAWS; and training and exercises to test public information and warning systems.

**8. Risk Management**

This capability protects critical infrastructure by assessing threats and capabilities, providing security measures including equipment, training, and exercises, and preparedness activities for the whole community.

Examples of allowable expenses: critical infrastructure assessments, generators for PSAPs and EOCs, video entry and access control systems, and Citizen Corps Program expenses.

**9. Screening, Search, and Detection**

Identify, discover, or locate threats and/or hazards through active and passive surveillance and search procedures. This may include the use of systematic examinations and assessments, bio-surveillance, sensor technologies, or physical investigation and intelligence.

Examples of allowable expenses: detection and protection equipment, and training for emergency responders including veterinarians, laboratories, and medical providers who detect and respond to hazardous materials and diseases, agriculture and livestock bio-detection and protection equipment, training, and exercises.

**10. Intelligence and Information Sharing / South Dakota Fusion Center**

This investment supports the Fusion Center which gathers and disseminates terrorism-related information and/or suspicious activity reports through a network linking local, state, tribal, federal, and private sector partners. This network transmits information to the appropriate response and intelligence agencies to mitigate threats.

**Law Enforcement Projects**

The State Homeland Security Program grant requires that 25% of the grant be used for law enforcement activities. Law enforcement agencies that receive grant funding are expected to:

- Have a designated Fusion Liaison Officer
- Contribute intelligence and information to the Fusion Center
- Be trained in Suspicious Activity Reporting (available at <https://www.dhs.gov/nationwide-sar-initiative-nsi/online-sar-training>)

The Office of Homeland Security requires membership of the regional review committees (discussed under Local Projects) to include one county emergency manager and one law enforcement official from each county.

Each region is provided with a law enforcement minimum dollar amount for grant funding.

### **Grant Requirements**

#### **A. Required National Cybersecurity Review (NCSR)**

Starting in grant year 2019, all sub-recipients must complete and submit a NCSR by the end of the calendar year before reimbursement. The NCSR is an anonymous, annual self-assessment designed to measure gaps and capabilities of cybersecurity programs. The assessment is done online between October-December of each calendar year. The assessment is required of all sub-recipients. For more information, see [https://www.fema.gov/IB 439 April 12, 2019](https://www.fema.gov/IB439April12.2019) .

#### **B. THIRA/SPR**

All county emergency managers are required to complete a THIRA/SPR (Threat Hazard Identification Risk Assessment/Stakeholders Preparedness Review). The THIRA/SPR helps identify planning, equipment, training, and exercises needed in the county. Items requested in grant applications should be identified in the THIRA/SPR.

Applicants, other than county emergency managers, are required to assess their greatest concern. The grant application should reflect how to reduce the concern. For example, if school access is the concern, the applicant should apply for access control not radios.

#### **B. Pre-Risk Assessment**

Each applicant, except state agencies, are required to complete a pre-risk assessment. Schools, Fire Departments, Counties, to name a few, are not state agencies.

#### **C. Sub-recipient Agreement**

Applicants that are offered a grant award will be required to sign an agreement that details terms and conditions as set forth by the State and Federal Government. Before you incur costs or receive any federal grant funds awarded to you, this agreement must be signed by an authorized signer from your agency and the Director of the South Dakota Office of Homeland Security in the EDGAR system. Should you incur costs or start a project before the award agreement is signed by the Office of Homeland Security, you will not be reimbursed.

#### **D. Definitions**

1. State. *State* refers to the State of South Dakota.
2. SDHLS. *SDHLS* refers to the South Dakota Office of Homeland Security.
3. SHSGP. *SHSGP* refers to State Homeland Security Grant Program.
4. Subaward. *Subaward* refers to an award provided by a pass-through entity (SDHLS) to a sub-recipient.
5. Sub-Recipient. *Sub-Recipient* refers to a non-federal entity that receives a subaward from a pass-through agency (SDHLS), aka grantee, subgrantee
6. Sub-Recipient Agreement. The signatory document that commits grant funds to the sub-recipient and describes terms and conditions.
7. EDGAR. *EDGAR* (Electronic Database for Grant Application & Reporting) is the South Dakota Department of Public Safety's on-line grant management system.

**E. Grant Provisions**

1. Subaward Beginning and End Dates. Both dates are on the Award Agreement.
2. Amendment Provision. Any amendments to Award Agreements must be in writing and approved by SDHLS.
3. Termination Provision. SDHLS retains the right to terminate subawards through the State Homeland Security Grant Program at any time.

**F. Legal Provisions**

1. Funding Out Clause. Subaward Agreements depend upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the State Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, the Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
2. Insurance Provision. Sub-recipients agree, at their sole cost and expense, to maintain general liability, worker's compensation, professional liability, and automobile liability insurance during the subaward period as specified in the award.
3. Indemnification. The Grantee agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the sub-recipients to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
4. Governing Law & Venue. The Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
5. Severability & Non-Waiver. If any court of competent jurisdiction shall hold any provision of the Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof. Failure by the State to strictly enforce any provision of the Agreement shall not operate as a waiver of any provision, right or responsibility contained herein.
6. No Sub-Granting or Assigning. Agreements may not be assigned, nor the funds given to a new or additional sub-grantee, without the express prior written consent of the SDHLS. Agreements may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto. Any assignees, sub-grantees, or successors in interest must agree to be bound by all the terms contained within the Agreement and shall be bound hereby to all these terms.
7. No Third Parties. Agreements are intended only to govern the rights and interests of the parties named herein. It is not intended to, does not and may not be relied upon to create any rights, substantial or procedural, enforceable at law by any third party in any matters, civil or criminal.
8. Sub-recipients agree to SD Codified Law 1-56 including the following conditions:
  - A conflict of interest policy is enforced within your organization;
  - The Internal Revenue Service Form 990 (Return of Organization Exempt from Income Tax) has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on your website;
  - An effective internal control system is employed by your organization; and

- If applicable, your organization follows the federal Single Audit Act, in compliance with 4-11-2.1, and audits are displayed on your website.

**G. Federal and State Requirements**

Sub-recipients must comply with applicable requirements of all state and federal laws, executive orders, regulations, and policies governing this program including the applicable years' DHS Standard Terms and Conditions.

**1. Federal Administrative Requirements, Cost Principles, and Audit Requirements** (also see Federal Standard Terms and Conditions below)

Sub-recipients are **required to follow all** CFR requirements found in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

The below sections have been included to draw special attention to some of the requirements. Additional SDHLS requirements have been included where applicable. Please refer to the full text of the CFR for complete information: [www.ecfr.gov](http://www.ecfr.gov)

- CFR Administrative Requirements:  
2 CFR Part 200 Subpart D (2 CFR 200.300 through 2 CFR 200.345)
- CFR Cost Principles:  
2 CFR Part 200 Subpart E (2 CFR 200.400 through 2 CFR 200.475)
- CFR Audit Requirements:  
2 CFR Part 200 Subpart F (2 CFR 200.500 through 2 CFR 200.521)

**A. Suspension and Debarment (2 CFR 200.212)**

Sub-recipients may not form a new contract, make a new purchase from, or enter into any new business relationship with parties listed on the government wide exclusions database in the System for Award Management (SAM).

- Prior to entering into any contract or purchase funded by federal grants expected to exceed or equal \$25,000, a search must be performed using the SAM website: [www.sam.gov](http://www.sam.gov) .
  - The search must be documented with a print screen of the search results.
  - A copy of the print screen must be attached to the application and upon submission of the reimbursement.
- It is recommended that the sub-recipient adopt a Suspension and Debarment policy for procurements made with federal funds.
  - A sample Suspension and Debarment policy and further instructions on performing a debarment search may be found at: .

**B. Equipment (2 CFR 200.313)**

- Title. 2 CFR 200.313(a). Equipment purchased by the sub-recipient with federal award funds is the property of the sub-recipient.
- Use. 2 CFR 200.313(c)(1). Equipment must be used by the sub-recipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency.

- c. Property Records. 2 CFR 200.313(d)(1). Property records must be maintained for all items with a per-unit acquisition cost of \$5,000 or more. Property records must include:
- i. description of the property
  - ii. serial number or other identification number
  - iii. source of funding for the property (including the federal award number found on the Grant Sub-Recipient Agreement)
  - iv. who holds title
  - v. acquisition date
  - vi. cost of the property
  - vii. percentage of federal participation in the project costs for the federal subaward under which the property was acquired
  - viii. the location
  - ix. use
  - x. condition
- Note:** Many property record systems will not allow for the inclusion of all the required information. In that case, it may be necessary to maintain additional records for property acquired under the federal grant.
- d. Physical Inventory. 2 CFR 200.313(d)(2). A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.
- e. Control System. 2 CFR 200.313(d)(3). A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- f. Maintenance Procedures. 2 CFR 200.313(d)(4). Adequate maintenance procedures must be developed to keep the property in good condition. For example, generators will receive yearly maintenance and testing under load at a minimum. Warning sirens will receive yearly maintenance and testing.
- g. Disposition or Transfer. 2 CFR 200.313(e). When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, disposition of the equipment will be made as follows:
- i. Disposition.
    - a. Items of equipment with a current per-unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
      - i. An Equipment Disposition Request Form must be submitted to SDHLS within 30 days of final disposition.
    - b. Items of equipment with a current per-unit fair market value more than \$5,000 may be retained by the sub-recipient or sold. If sold, the sub-recipient must return a proportionate share of the federal funds from the sale of the equipment.
      - i. SDHLS approval is required prior to disposition.
      - ii. An Equipment Disposition Request Form must be submitted to SDHLS for approval at least 120 days prior to the proposed disposition date.

- c. The Equipment Disposition Request Form can be selected at:  
[http://dps.sd.gov/homeland\\_security/documents/EquipmentDispositionRequestForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentDispositionRequestForm.pdf)

- ii. Transfer.

- a. Items of equipment with an original cost of \$5,000 or more may be transferred to an eligible third party. An Equipment Transfer Form must be submitted to SDHLS within 30 days of the transfer.
- b. The Equipment Transfer Form can be selected at:  
[http://dps.sd.gov/homeland\\_security/documents/EquipmentTransferForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentTransferForm.pdf)

### C. Procurement (2 CFR 200.317 through 2 CFR 200.326)

- a. General Requirement. Sub-recipients will follow all federal provisions under 2 CFR 200.318 through 2 CFR 200.326.
- b. Procurement Procedures. 2 CFR 200.318(a). The sub-recipient must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards found in 2 CFR 300.318. **The sub-recipient's own policies and procedures must meet, at a minimum, the federal requirements referenced in section C.a. above.**
- c. Conflict of Interest. 2 CFR 200.318(c)(1). The sub-recipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. Anyone who develops or drafts specifications, requirements, statements of work and/or Requests for Proposal (RFP) for a proposed purchase or contract must be excluded from bidding or submitting a proposal to compete for the award because such involvement provides an advantage over other bidders. See 2 CFR 200.319(a). All procurement transactions must be conducted in a manner providing full and open competition.
- d. Methods of Procurement to be followed. 2 CFR 200.320.
  - i. **Less than \$3,000** Micro-purchases, which are aggregate purchase amounts not exceeding \$3,000, may be awarded without soliciting competitive quotations if the sub-recipient considers the price to be reasonable.
  - ii. **Between \$3,001 and \$150,000** Price or rate quotes **must be** obtained from a minimum of two (2) qualified sources for all purchases with aggregate purchase amounts \$3,001-\$150,000.
    - a. The amount requested on the grant application **must** be for the lower of the quotes. The quotes provided **must** match the item and quantity requested on the application budget.
    - b. The sub-recipient must maintain documentation of the quotes in their grant files.
    - c. **No bid solicitation is necessary for purchases made under State of South Dakota contracts, GSA or NASPO contracts, provided the quote states "State or GSA, NASPO contract pricing".**

- d. The State Contracts are NOT considered quotes and should NOT to be uploaded.
- iii. **Over \$150,000** The purchase may be made by utilizing Sealed Bids or Competitive Proposals. Please reference 2 CFR 200.320 (c) and (d) for specific requirements.
- iv. **In addition** to the above federal requirements, sub-recipients must adhere to all provisions of their own procurement procedures when they are more restrictive than federal requirements.
- e. Procurement by Non-Competitive Sources (Sole Source). 2 CFR.320 (f). **Sole source purchases are not allowed without prior approval from SDHLS.**
  - i. Complete a Request for Sole Source Purchase Form and submit it to SDHLS prior to entering into a purchase commitment.
    - a. The Request for Sole Source Purchase Form link is: [http://dps.sd.gov/homeland\\_security/documents/RequestforSoleSourcePurchase.pdf](http://dps.sd.gov/homeland_security/documents/RequestforSoleSourcePurchase.pdf)
    - b. Adequate justification is required on the Sole Source form.
  - ii. The approved form must be attached to the sub-recipient's reimbursement request.

**D. Record Retention (2 CFR 200.333)**

- a. Projects will be closed when the award has been expended or at the subaward end date, whichever comes first. Grant records must be retained for three years after the grant is closed.
- b. Equipment records must be retained for the life of the equipment and for three years after final disposition of the equipment.
- c. Sub-recipients must maintain organized grant files containing the following information:
  - i. Copy of the project application and signed Sub-Recipient Award agreement.
  - ii. Copy of revisions to the original agreement, if any.
  - iii. Copies of all reimbursement requests.
  - iv. For aggregate purchases of \$25,000 or more, copy of verifications that the vendor was not on the debarred or excluded list at the time the order was placed.
  - v. Copies of the capital asset inventory records for grant-funded equipment if applicable.
  - vi. Copies of Equipment Disposal/Transfer Forms for grant-funded equipment if applicable.
  - vii. Copies of monitoring reports completed by the South Dakota Department of Public Safety if applicable.
  - viii. Copies of Environmental and Historic Preservation approvals from FEMA if applicable.
  - ix. Copies of completed audits which are relative to the grant project if applicable.

**E. Federal Funding Accountability and Transparency Act (FFATA) (2 CFR 200.331(b))**

To provide the public access to information on Federal spending through USASpending.gov, the State, as a prime awardee of Federal grant funds, is required to report on all subawards issued for \$25,000 or more.

This reporting is not a sub-recipient requirement. It is a requirement of the State. Be aware that if a sub-recipient receives a subaward of \$25,000 or more, the following information will be reported on USASpending.gov:

- Entity Information
- DUNS - Data Universal Numbering System
- Date of Subaward
- Amount of Subaward

**F. Access to Records (2 CFR 200.336)**

- a. FEMA, the Inspector General, the Comptroller General of the United States, and the State, or any of their authorized representatives, have the right of access to any documents, papers, or other records of the sub-recipient which are pertinent to the Federal subaward.

**2. State Administrative Requirements**

**A. Concurrence with Statewide Projects**

Supporting the recommendation of the South Dakota Homeland Security and Emergency Management Senior Advisory Committee, the sub-recipient agrees to use local pass-through funding for four statewide projects: Fusion Center, SWAT training, and SD Taskforce 1. The current allocation for statewide projects is \$600,000.

**B. Grant Management System**

Sub-recipient agrees to use SDHLS's on-line grant management system (EDGAR) for the application and grant management of subawards including but not limited to the following:

- a. Maintain current sub-recipient contact information in the system
- b. DUNS – Data Universal Numbering System, a unique numeric identifier, referred to as a "**DUNS** number" to a single business entity
- c. Complete THIRA/SPR (county emergency managers)
- d. Pre-risk Assessment Evaluation
- e. Each project must focus on an investment justification as described on the application
- f. Complete and submit required documentation
- g. Submit reimbursement requests
- h. Submit required progress reports

**C. Sub-recipient Monitoring**

- a. SDHLS shall monitor the programmatic and financial progress of sub-recipients to assure compliance with local, state and federal requirements and that performance goals are being achieved.
- b. The sub-recipient understands that SDHLS may enforce any of the remedies for noncompliance allowed by state and federal regulations.
- c. The closeout of a grant does not affect the SDHLS's responsibility to monitor beyond the performance period end date.

**D. Environmental**

Projects involving ground disturbance, communication towers, physical security enhancements, and installation of equipment to buildings and structures must

meet the requirements of FEMA's Environmental Planning and Historic Preservation (EHP) Program.

Projects that require EHP approval cannot begin until written EHP approval has been received from FEMA.

Sub-recipients are required to complete and submit the EHP Screening Form to the Office of Homeland Security with the required photos and other documentation. Upon review, the documentation will be submitted to FEMA for final approval. When approval is received from FEMA, SDHLS will notify the sub-recipient and the project can begin.

SDHLS will send a fillable PDF form upon the grant being awarded. The Environmental and Historic Preservation Screening Form is available at: [http://dps.sd.gov/homeland\\_security/homeland\\_security\\_grants.aspx](http://dps.sd.gov/homeland_security/homeland_security_grants.aspx) You will need to save the form as a Word document to your computer.

#### **E. Contract Approval**

Sub-recipients must obtain written approval from SDHLS prior to execution of contracts funded under this grant.

#### **F. Reimbursement**

**Homeland Security grants are paid on a reimbursement basis; if you are awarded a grant, you must pay for the equipment or services. You will be reimbursed only the amount noted on your subaward. You are responsible for any difference in cost.**

Sub-Recipient Agreements will be distributed when the state receives the Federal Notice of Grant Award, typically in September. The agreements must be signed by the applicant or designee and the Director of Homeland Security to be valid. Equipment or services procured prior to the signing of the agreement will not be reimbursed.

All expenses must have prior approval through the Sub-Recipient Agreement or they will not be reimbursed. Reimbursement requests must be submitted through EDGAR. Projects must be completed by the subaward end date noted on the Agreement.

- a. Reimbursement requests must be submitted through the EDGAR system no later than 45 days after project completion or after the subaward end date.
- b. Equipment and/or services must be received, and the vendor paid prior to requesting reimbursement.
- c. Travel. Reimbursement for meals, lodging, mileage, and other expenses will follow State policy, except where non-state employees are unable to obtain state lodging rates.
  - i. In-state per diem rates can be found at:  
<http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=05:01:02:14>
  - ii. Out-of-state per diem rates can be found at:  
<http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=05:01:02:11>

- iii. Mileage rates can be found at:  
<http://legis.sd.gov/rules/DisplayRule.aspx?Rule=05:01:02:01>
    - 1. For state or local government-owned vehicles, reimbursement will be made for actual fuel usage supported by receipts.
  - iv. When non-state employees are unable to obtain state rates, they are expected to obtain reasonable lodging rates.
  - v. Unallowable travel costs include entertainment charges, tobacco, alcohol or bar charges, laundry charges, visa or passport charges, tips, phone calls, personal hygiene items, in-room movies, magazines, personal transportation (other than to program activities), travel insurance, and credit card fees.
- d. Documentation. Reimbursement requests must include the following documentation:
- i. **Itemized invoices.** If the invoice is not itemized, then submit the related proposal or quote.
  - ii. **Proof of payment.** Proof of payment should be in the form of a front-and-back copy of the canceled check, paid credit card statement, or a copy of electronic transfer documentation showing payment has been made to the vendor.
  - iii. **Monitoring form.** A monitoring form must be completed for any system or equipment over \$5,000.00. The form is available on the reimbursement page within the EDGAR program.
  - iv. **Travel, training, and exercises.**
    - 1. Costs must be itemized separately for each traveler (departure and return times, destinations, airfare, lodging; meals, ground transportation to program activities, and other allowable expenses).
    - 2. Purpose of travel as it relates to program activities.
    - 3. Copy of the agenda or registration form.
    - 4. Meals will be reimbursed based on departure and return times; receipts for meals are not required.
    - 5. If the sub-recipient does not have an agency required form to summarize travel costs for grant activity participants, the sub-recipient may use the Travel Detail Worksheet available on the SDHLS website at [http://dps.sd.gov/homeland\\_security/homeland\\_security\\_grants.aspx](http://dps.sd.gov/homeland_security/homeland_security_grants.aspx).
    - 6. Rosters for all *hosted* trainings and exercises.
    - 7. Exercises that are reimbursed by the Office of Homeland Security must be compliant with the Homeland Security Exercise and Evaluation Program (HSEEP). HSEEP is a national standard for all exercises.
  - v. **Suspension & Debarment Search Documentation.** A copy of the print screen from [www.sam.gov](http://www.sam.gov) must be included for aggregate purchases of \$25,000 or more. Instructions on performing a debarment search may be found at: [http://dps.sd.gov/homeland\\_security/documents/DebarmentSearchProcedures2015.pdf](http://dps.sd.gov/homeland_security/documents/DebarmentSearchProcedures2015.pdf).

- vi. **Equipment Transfer Form.** An Equipment Transfer Form must be attached whenever equipment is transferred to another entity. The form is available at:  
[http://dps.sd.gov/homeland\\_security/documents/EquipmentTransferForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentTransferForm.pdf)
- vii. **Request for Sole Source Procurement Form.** An approved Request for Sole Source Procurement Form must be included for any items for which competitive quotes were not received. The form is available at:  
[http://dps.sd.gov/homeland\\_security/documents/RequestforSoleSourcePurchase.pdf](http://dps.sd.gov/homeland_security/documents/RequestforSoleSourcePurchase.pdf)

### **G. Radios, Repeaters and Pagers for First Responders**

Radios, repeaters and pagers for first responders must be justified in the grant application. The Office of Homeland Security may limit awards for radios, repeaters and pagers based on priority, agency, and funding available. The Office of Homeland Security will not fund radios for highway departments, public works, hospitals, schools, city or county political officials, and other agencies that are not first responders.

Radios and repeaters must be state digital P25 compliant and VHF.

If encrypted radios are being requested, the radios must be P25 compliant and must have AES multi-key encryption capability. The minimum standard for AES is the 256-bit encryption. AES is allowed for law enforcement only.

Each radio registered in the State Radio system has an identification number (ID), the serial number of the radio, and an alias (the agency name). Contact Todd Dravland [todd.dravland@state.sd.us](mailto:todd.dravland@state.sd.us) at State Radio if you are disposing of radios, adding new radios, or replacing radios. Please provide the radio ID number to delete if you are disposing of a radio. If a new radio has been added or a radio has been programmed to replace an ID number, provide the new radio serial number.

### **H. National Incident Management System (NIMS)**

Sub-Recipients must adopt and implement NIMS standards as described in this link: <https://www.fema.gov/national-incident-management-system>

### **I. Security Needs Assessment**

Applications for hardening/securing a critical infrastructure may require a security needs assessment conducted by an objective party.

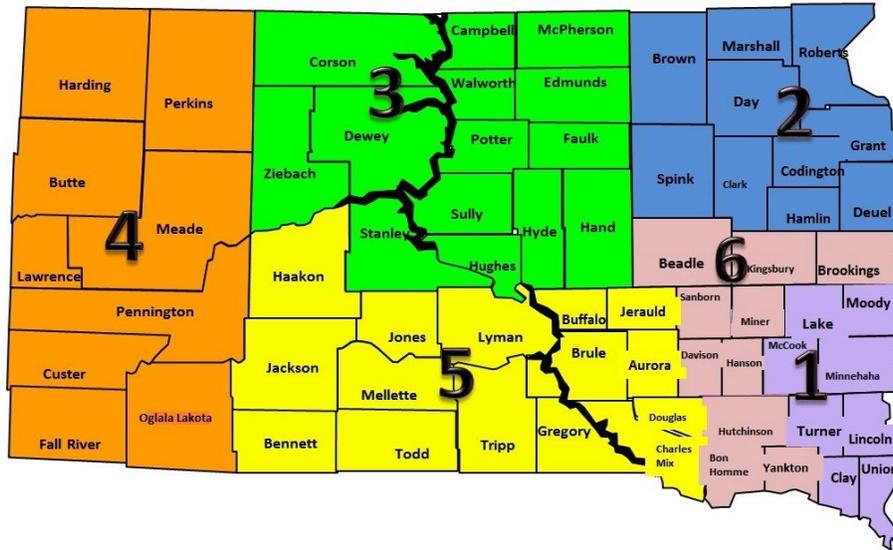
### **Special Conditions**

Special conditions (if any) relating to a grant subaward will be stipulated on the Sub-Recipient Agreement.

## Local Projects

The Office of Homeland Security will provide each of the six regions (as shown below) with an award amount based on a minimum base amount for each county and the population of the county.

South Dakota Department of Public Safety  
Emergency Management and Homeland Security Regions



Applications must be submitted to the Office of Homeland Security using the EDGAR (web based electronic grants management system) application form. A deadline for receipt of applications for local projects will be announced.

Applications can be denied for any reason. For example, applications can be denied if the amount requested is more than the historical regional allocation or the applicant is considered at high risk of compliance with the conditions of grant award.

When applications have received preliminary programmatic approval, the applications will be available to the regions to decide the priority for grant awards.

Each of the six regions will hold a meeting to review and rank the applications, based on the funding available. Federal Homeland Security grants have certain requirements; one is that at least 25 percent (25%) of grant funding appropriated to the State must be used for law enforcement terrorism prevention activities.

The Office of Homeland Security requires membership of the regional review committees to include one county emergency manager and one law enforcement official from each county. While the county emergency manager has knowledge of overall disaster and emergency response needs for the county, specific needs of law enforcement agencies are better known to law enforcement agencies. Therefore, requiring a law enforcement official to be present to decide on projects that will receive funding ensures that the overall law enforcement requirement is met and the highest priority projects for law enforcement are approved.

This does not imply that law enforcement projects should be arbitrarily approved as the process is competitive. Each region is provided with a law enforcement minimum dollar amount.

After the committee has determined which the projects to fund, the regional coordinator will provide the Office of Homeland Security with a list of projects to be awarded.

An award agreement for approved projects will be sent to each sub-recipient for signature through the EDGAR system. Applicants whose projects were not funded will be notified. Once the agreement is signed by the applicant and returned to the Office of Homeland Security, the Director of Homeland Security will sign the agreement.

Sub-recipients will be able to access a copy of the final completed agreement indicating that projects can go forward, any special conditions, and the award expiration date in the EDGAR system. If a sub-recipient does not complete the project by the end of the project period specified on the award agreement, the Director of Homeland Security will either extend the project period or reallocate the funding award to another local project. Extensions or reallocations must be in writing, provided to the sub-recipient and maintained in the grant file.

### **Regional Projects**

If a region elects to use their allocation for a regional project (example; radios), 20% of their allocation must be set aside for other local projects.

### **State Projects**

State funding (20% of the grant) is available for statewide projects. State agencies and other public, non-profit agencies may apply through the EDGAR system.

When approved by the Office of Homeland Security, an award agreement will be sent to the applicant for signature electronically through the EDGAR system.

Once the agreement is electronically signed and returned to the Office of Homeland Security, the Director of Homeland Security will sign the agreement.

Awardees will be able to access a copy of the final completed agreement indicating that projects can go forward, special conditions, and the award expiration date in the EDGAR system. If a sub-recipient does not complete the project by the end of the project period specified on the award agreement, the Director of Homeland Security will either extend the project period or reallocate the funding award to another state project. Written documentation of extensions or reallocations will be provided to the sub-recipient and maintained in the grant file.

### **Progress Reports**

Sub-recipients are **required** to submit a minimum of one progress report on all projects through the EDGAR system. At least one progress report must be submitted by April 1<sup>st</sup> of each year and/or before final reimbursement submission.

## Allowable and Unallowable Costs

### 1. Allowable Costs

Costs that are allowable include, but are not limited to, the following expenses if specific to Homeland Security activities:

- Radios and repeaters P25 compliant with the State Radio system
- Pagers for 1<sup>st</sup> responders
- Backup generators and transfer switches for PSAPs or EOCs only
- Fire service equipment for hazmat or technical rescue (must meet applicable NFPA standards whenever possible)
- Tactical gear, ballistic equipment, or hazmat personal protective gear for 1<sup>st</sup> responders
- Access control systems such as electronic locks, video entry, door locks, metal detectors, and panic buttons. Projects in school buildings must be reviewed by the State Fire Marshal to ensure they meet NFPA Fire Codes and state laws on school fire safety.
- Travel expenses incurred while traveling away from your duty station for Homeland Security related planning meetings, training, or exercises (full-scale, functional, or table-top)
- Cost of hosting planning meetings, trainings, and exercises. The primary purpose must be the distribution of technical information relevant to Homeland Security
- Overtime and backfill salaries for the individuals providing shift coverage for those participating in Homeland Security approved planning meetings, training, and exercises.

### 2. Unallowable Costs

The following list describes items that Homeland Security will **not** fund. This list is not comprehensive but includes commonly requested items.

- Radios and repeaters not compatible with State Radio System
- Replacement of items previously funded through Homeland Security (exceptions on case by case basis)
- Extended warranties, service agreements, service/maintenance fees purchased after the initial purchase of equipment can not be reimbursed.
- Radios for highway departments, schools, hospitals, or other non-first responder entities
- Normal duty or response duty personnel time
- Firearms, ammunition, explosive devices, munitions (distraction devices, grenades)
- Body cameras
- Recurring costs such as licenses, wireless fees, internet fees, wireless cards
- General use software, computers, equipment, or office furniture
- Non-ruggedized laptops or tablets for in-vehicle use
- Basic firefighting bunker gear or other general use uniforms
- Basic duty gear (belts, holsters, pouches)
- Construction or remodeling
- Door installation/replacement not directly related to Homeland Security mission
- Surveillance camera systems, replacements, or additions to existing systems
- Access control for new construction
- Automated external defibrillators (AED) for non-EMS entities
- Maintenance or repair on vehicles, boats, trailers, or other equipment
- Research and development projects
- Warning Sirens
- Stop the Bleed kits

\*All equipment must be listed as allowable on FEMA's Authorized Equipment List (AEL) for the Homeland Security Grant Program (HSGP), see <https://www.fema.gov/authorized-equipment-list>

**The 2019 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2019. These terms and conditions flow down to subrecipients, unless a particular award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations. These requirements will be updated when DHS releases the 2020 DHS Standard Terms and Conditions.**

## **Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) [Standard Form 424B Assurances – Non-Construction Programs](#), or [OMB Standard Form 424D Assurances – Construction Programs](#), as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at [Title 2, Code of Federal Regulations \(C.F.R.\) Part 200](#), and adopted by DHS at [2 C.F.R. Part 3002](#).

## **DHS Specific Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. Recipients of federal financial assistance from DHS must complete the *DHS Civil Rights Evaluation Tool* within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from

# 2019 DHS Standard Terms and Conditions

DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit updates every two years, not every time a grant is awarded. Recipients should submit the completed tool, including supporting materials, to

[CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

## Standard Terms & Conditions

### I. **Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

### II. **Activities Conducted Abroad**

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

### III. **Age Discrimination Act of 1975**

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub. L. No. 94-135 (1975) (codified as amended at [Title 42, U.S. Code, § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

### IV. **Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at [42 U.S.C. §§ 12101–12213](#)), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

### V. **Best Practices for Collection and Use of Personally Identifiable Information (PII)**

Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy Template](#) as useful resources respectively.

### VI. **Civil Rights Act of 1964 – Title VI**

# 2019 DHS Standard Terms and Conditions

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at [42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).

## **VII. Civil Rights Act of 1968**

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, [Pub. L. No. 90-284, as amended through Pub. L. 113-4](#), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see [42 U.S.C. § 3601 et seq.](#)), as implemented by the U.S. Department of Housing and Urban Development at [24 C.F.R. Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See [24 C.F.R. Part 100, Subpart D.](#))

## **VIII. Copyright**

Recipients must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

## **IX. Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) [12549](#) and [12689](#), which are at [2 C.F.R. Part 180](#) as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

## **X. Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of [2 C.F.R. Part 3001](#), which adopts the Government-wide implementation ([2 C.F.R. Part 182](#)) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* ([41 U.S.C. §§ 8101-8106](#)).

## **XI. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other federal financial assistance awards to overcome

# 2019 DHS Standard Terms and Conditions

fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

**XII. Education Amendments of 1972 (*Equal Opportunity in Education Act*) – Title IX**  
Recipients must comply with the requirements of Title IX of the *Education Amendments of 1972*, Pub. L. No. 92-318 (1972) (codified as amended at [20 U.S.C. § 1681 et seq.](#)), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#)

**XIII. Energy Policy and Conservation Act**  
Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. No. 94-163 (1975) (codified as amended at [42 U.S.C. § 6201 et seq.](#)), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**XIV. False Claims Act and Program Fraud Civil Remedies**  
Recipients must comply with the requirements of the *False Claims Act*, [31 U.S.C. §§ 3729-3733](#), which prohibits the submission of false or fraudulent claims for payment to the federal government. (See [31 U.S.C. §§ 3801-3812](#), which details the administrative remedies for false claims and statements made.)

**XV. Federal Debt Status**  
All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See [OMB Circular A-129](#).)

**XVI. Federal Leadership on Reducing Text Messaging while Driving**  
Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in [E.O. 13513](#), including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

**XVII. Fly America Act of 1974**  
Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974*, [49 U.S.C. § 40118](#), and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, [amendment](#) to Comptroller General Decision B-138942.

# 2019 DHS Standard Terms and Conditions

**XVIII. *Hotel and Motel Fire Safety Act of 1990***

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, [15 U.S.C. § 2225a](#), recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, (codified as amended at [15 U.S.C. § 2225](#).)

**XIX. *Limited English Proficiency (Civil Rights Act of 1964, Title VI)***

Recipients must comply with Title V of the *Civil Rights Act of 1964*, ([42 U.S.C. § 2000d et seq.](#)) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-departmentsupported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

**XX. *Lobbying Prohibitions***

Recipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

**XXI. *National Environmental Policy Act***

Recipients must comply with the requirements of the [National Environmental Policy Act of 1969](#), [Pub. L. No. 91-190 \(1970\)](#) (codified as amended at [42 U.S.C. § 4321 et seq.](#) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

**XXII. *Nondiscrimination in Matters Pertaining to Faith-Based Organizations***

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in [6 C.F.R. Part 19](#) and other applicable statutes, regulations, and guidance governing the participations of faithbased organizations in individual DHS programs.

# 2019 DHS Standard Terms and Conditions

## **XXIII. Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

## **XXIV. Notice of Funding Opportunity Requirements**

All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

## **XXV. Patents and Intellectual Property Rights**

Recipients are subject to the *Bayh-Dole Act*, [35 U.S.C. § 200 et seq.](#), unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at [37 C.F.R. Part 401](#) and the standard patent rights clause located at 37 C.F.R. § 401.14.

## **XXVI. Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the [Solid Waste Disposal Act](#), Pub. L. No. 89-272 (1965), (codified as amended by the [Resource Conservation and Recovery Act](#), 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 C.F.R. Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

## **XXVII. Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. No. 93-112 (1973), (codified as amended at [29 U.S.C. § 794](#)), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## **XXVIII. Reporting of Matters Related to Recipient Integrity and Performance**

### **1. General Reporting Requirements**

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the [Federal Awardee Performance and Integrity Information System \(FAPIIS\)](#)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under [Pub. L. No. 110-417, § 872](#), as amended [41 U.S.C. § 2313](#). As

# 2019 DHS Standard Terms and Conditions

required by [Pub. L. No. 111-212, § 3010](#), all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

## 2. Proceedings about Which Recipients Must Report

Recipients must submit the required information about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government;
- b. Reached its final disposition during the most recent five year period; and
- c. One or more of the following:
  - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - 3) An administrative proceeding, as defined in paragraph 5, that resulted in a finding of fault and liability and the recipient's payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - 4) Any other criminal, civil, or administrative proceeding if:
    - a)It could have led to an outcome described in this award term and condition;
    - b)It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the recipient's part; and
    - c)The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

## 3. Reporting Procedures

Recipients must enter the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition.

Recipients do not need to submit the information a second time under financial assistance awards that the recipient received if the recipient already provided the information through SAM because it was required to do so under federal procurement contracts that the recipient was awarded.

## 4. Reporting Frequency

During any period of time when recipients are subject to the main requirement in paragraph 1 of this award term and condition, recipients must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that recipients have not reported previously or affirm that there is no new

# 2019 DHS Standard Terms and Conditions

information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

## 5. Definitions

For the purpose of this award term and condition:

- a. *Administrative proceeding*: means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. *Conviction*: means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. *Total value of currently active grants, cooperative agreements, and procurement contracts* includes—
  - 1) Only the federal share of the funding under any federal award with a recipient cost share or match; and
  - 2) The value of all expected funding increments under a federal award and options, even if not yet exercised.

## XXIX. Reporting Subawards and Executive Compensation

### 1. Reporting of first-tier subawards.

- a. *Applicability*. Unless the recipient is exempt as provided in paragraph 4 of this award term, the recipient must report each action that obligates \$25,000 or more in federal funds that does not include Recovery funds (as defined in Section 1512(a)(2) of the *American Recovery and Reinvestment Act of 2009*, Pub. L. 111-5) for a subaward to an entity (See definitions in paragraph 5 of this award term).
- b. *Where and when to report*.
  - 1) Recipients must report each obligating action described in paragraph 1 of this award term to the [Federal Funding Accountability and Transparency Act Subaward Reporting System](#) (FSRS.)
  - 2) For subaward information, recipients report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2016, the obligation must be reported by no later than December 31, 2016.)

# 2019 DHS Standard Terms and Conditions

- c. *What to report.* The recipient must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov>.

## 2. Reporting Total Compensation of Recipient Executives.

- a. *Applicability and what to report.* Recipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if—

- 1) The total federal funding authorized to date under this award is \$25,000 or more;

- 2) In the preceding fiscal year, recipient's received—

- a) 80 percent or more of recipients annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and
- b) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and

- 3) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

- b. *Where and when to report.* Recipients must report executive total compensation described in paragraph 2.a. of this award term:

- 1) As part of the recipient's registration profile at <https://www.sam.gov>.
- 2) By the end of the month following the month in which this award is made, and annually thereafter.

## 3. Reporting of Total Compensation of Subrecipient Executives.

- a. *Applicability and what to report.* Unless recipients are exempt as provided in paragraph 4. of this award term, for each first-tier subrecipient under this award, recipients shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- 1) In the subrecipient's preceding fiscal year, the subrecipient received—

- a) 80 percent or more of its annual gross revenues from Federal procurement contracts

# 2019 DHS Standard Terms and Conditions

(and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and

b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts

(and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

2) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the *Securities Exchange Act of 1934* (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

b. *Where and when to report.* Subrecipients must report subrecipient executive total compensation described in paragraph 3.a. of this award term:

1) To the recipient.

2) By the end of the month following the month during which recipients make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), subrecipients must report any required compensation information of the subrecipient by November 30 of that year.

## 4. Exemptions

If, in the previous tax year, recipients had gross income, from all sources, under \$300,000, then recipients are exempt from the requirements to report:

a. Subawards, and

b. The total compensation of the five most highly compensated executives of any subrecipient.

## 5. Definitions

For purposes of this award term:

a. *Entity*: means all of the following, as defined in 2 C.F.R. Part 25:

1) A Governmental organization, which is a State, local government, or Indian tribe;

2) A foreign public entity;

3) A domestic or foreign nonprofit organization;

4) A domestic or foreign for-profit organization;

# 2019 DHS Standard Terms and Conditions

- 5) A federal agency, but only as a subrecipient under an award or subaward to a nonfederal entity.
- b. *Executive*: means officers, managing partners, or any other employees in management positions.
- c. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.
  - 1) The term does not include recipients procurement of property and services needed to carry out the project or program.
  - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient or a subrecipient considers a contract.
- d. *Subrecipient*: means an entity that:
  - 1) Receives a subaward from the recipient under this award; and
  - 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.
- e. *Total compensation*: means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (See [17 C.F.R. § 229.402\(c\)\(2\)](#)):
  - 1) *Salary and bonus*.
  - 2) *Awards of stock, stock options, and stock appreciation rights*. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - 3) *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - 4) *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
  - 5) *Above-market earnings on deferred compensation which is not tax-qualified*.
  - 6) *Other compensation*, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

# 2019 DHS Standard Terms and Conditions

## XXX. SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the [SAFECOM](#) Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

## XXXI. Terrorist Financing

Recipients must comply with [E.O. 13224](#) and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

## XXXII. Trafficking Victims Protection Act of 2000 (TVPA)

Trafficking in Persons.

### 1. Provisions applicable to a recipient that is a private entity.

- a. Recipients, the employees, subrecipients under this award, and subrecipients' employees may not—
  - 1) Engage in severe forms of trafficking in persons during the period of time the award is in effect;
  - 2) Procure a commercial sex act during the period of time that the award is in effect; or 3) Use forced labor in the performance of the award or subawards under the award.
- b. DHS may unilaterally terminate this award, without penalty, if a recipient or a subrecipient that is a private entity —
  - 1) Is determined to have violated a prohibition in paragraph 1.a of this award term; or
  - 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 1.a of this award term through conduct that is either—
    - a) Associated with performance under this award; or
    - b) Imputed to recipients or subrecipients using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 C.F.R. Part 180](#), “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.

### 2. Provision applicable to recipients other than a private entity.

DHS may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

# 2019 DHS Standard Terms and Conditions

- a. Is determined to have violated an applicable prohibition in paragraph 1.a of this award term; or
- b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph 1.a of this award term through conduct that is either—
  - 1) Associated with performance under this award; or
  - 2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.

### 3. Provisions applicable to any recipient.

- a. Recipients must inform DHS immediately of any information received from any source alleging a violation of a prohibition in paragraph 1.a of this award term.
- b. It is DHS’s right to terminate unilaterally that is described in paragraph 1.b or 2 of this section:
  - 1) Implements TVPA, Section 106(g) as amended by 22 U.S.C. 7104(g)), and
  - 2) Is in addition to all other remedies for noncompliance that are available to us under this award.
- c. Recipients must include the requirements of paragraph 1.a of this award term in any subaward made to a private entity.

### 4. Definitions. For the purposes of this award term:

- a. *Employee*: means either:
  - 1) An individual employed by a recipient or a subrecipient who is engaged in the performance of the project or program under this award; or
  - 2) Another person engaged in the performance of the project or program under this award and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements
- b. *Forced labor*: means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

# 2019 DHS Standard Terms and Conditions

- c. *Private entity*: means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25. It includes:
  - 1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).
  - 2) A for-profit organization.
- d. *Severe forms of trafficking in persons, commercial sex act, and coercion* are defined in [TVPA, Section 103](#), as amended (22 U.S.C. § 7102)

## **XXXIII. Universal Identifier and System of Award Management**

### **1. Requirement for System for Award Management**

Unless the recipient is exempted from this requirement under 2 C.F.R. 25.110, the recipient must maintain the currency of their information in the SAM until the recipient submits the final financial report required under this award or receive the final payment, whichever is later. This requires that the recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in the recipient's information or another award term.

### **2. Requirement for unique entity identifier**

If recipients are authorized to make subawards under this award, they:

- a. Must notify potential subrecipients that no entity (see definition in paragraph 3 of this award term) may receive a subaward from the recipient unless the entity has provided its unique entity identifier to the recipient.
- b. May not make a subaward to an entity unless the entity has provided its unique entity identifier to the recipient.

### **3. Definitions**

For purposes of this award term:

- a. *System for Award Management (SAM)*: means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found on [SAM.gov](#).
- b. *Unique entity identifier*: means the identifier required for SAM registration to uniquely identify business entities.
- c. *Entity*: means all of the following, as defined at 2 C.F.R. Part 25, Subpart C:
  - 1) A Governmental organization, which is a State, local government, or Indian Tribe;
  - 2) A foreign public entity;

# 2019 DHS Standard Terms and Conditions

- 3) A domestic or foreign nonprofit organization;
  - 4) A domestic or foreign for-profit organization; and
  - 5) A Federal agency, but only as a subrecipient under an award or subaward to a nonFederal entity.
- d. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which a recipient received this award and that the recipient awards to an eligible subrecipient.
- 1) The term does not include the recipients procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. 200.330).
  - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient considers a contract.
- e. *Subrecipient* means an entity that:
- 1) Receives a subaward from the recipient under this award; and
  - 2) Is accountable to the recipient for the use of the Federal funds provided by the subaward.

## **XXXIV. USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the [Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 \(USA PATRIOT Act\)](#), which amends 18 U.S.C. §§ 175–175c.

## **XXXV. Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

## **XXXVI. Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. § 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).