



Exhibit B

SOUTH DAKOTA
HOMELAND SECURITY

Homeland Security Program Grants Administrative Manual

Terms and Conditions



Revised July 2021

Introduction

This manual provides information about two grants administered by the SD Office of Homeland Security: the State Homeland Security Grant and the Non-Profit Homeland Security grant.

The Office of Homeland Security works with state and local law enforcement officials, first responders, schools, and other stakeholders to assist with projects that will help our state remain prepared to respond acts of terrorism.

Recommendations for the administration of the grant program are provided by the Homeland Security and Emergency Management Senior Advisory Committee. The Committee includes representatives and subject matter experts from a variety of disciplines, working together to ensure responsible use of grant funding.

The SD Office of Homeland Security is committed to our partners throughout the state, and to the responsibility that we all have to keep South Dakota a safe place to live, work, visit and raise a family.

Please contact the Office of Homeland Security at 605-773-3450 for more information.

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 or upon request to the SD Office of Homeland Security

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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.

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. There is no required match for the State Homeland Security Grant.

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 Fusion Center, Special Weapons and Tactics (SWAT) Training, and Taskforce 1.

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 focused on access control: electronic entry systems, video entry, crash bars, door locks, metal detectors, bollards, collapsible gates, intercom systems, panic alarms, lighting, security screening equipment, window tint, and security assessments. At this time, surveillance cameras are not being funded. Private, non-profit schools may also be eligible to apply for the Non-Profit Homeland Security Grant described below.

State projects include equipment for physical protection of state assets, cybersecurity projects, 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.

The grant application process is competitive. Requests for funding must be fully explained and justified. Applications lacking appropriate justification and lacking a Homeland Security counter-terrorism connection will not be considered.

National Preparedness Goal

Funding from Homeland Security grants must be used for projects that follow the National Preparedness Goal, written by the US 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 can be found at https://www.fema.gov/sites/default/files/2020-06/national_preparedness_goal_2nd_edition.pdf . The 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.

The Office of Homeland Security uses the federal priorities, 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 categories:

1. Combating Domestic Violent Extremism

Today the most significant terrorist threat facing the nation comes from lone offenders and small groups of individuals who commit acts of violence motivated by domestic extremist ideological beliefs stemming from a political, religious, social, racial, or environmental nature. Examples of projects include analysis of misinformation campaigns such as online and social media-based threats, protection of critical infrastructure targeted by terrorist groups, training to prevent radicalization, and training to educate the public on misinformation.

2. Cybersecurity

Projects under this core capability will protect electronic systems from damage, unauthorized use, and exploitation. Computer systems need to be protected against viruses, malware, ransomware, spyware, etc. Examples of projects in this category are: conduct cybersecurity risk assessments, install intrusion detection systems, provide physical protection of hardware systems in critical infrastructure, and conduct cybersecurity training and exercises.

3. Protecting Soft Targets and Crowded Places

Soft targets and crowded places are typically defined as locations or environments that are easily accessible, attract large numbers of people on a predictable or semi-predictable basis, and may be vulnerable to attacks using simple tactics and readily available weapons. Examples include schools, national monuments, hospitals, sporting arenas, cultural centers, places of worship, and transportation sites.

Projects under this core capability include physical, technological, and computer-generated measures to control admittance and protect soft targets and crowded venues. Projects may include access control, video entry, crash bars, door locks, metal detectors, bollards, collapsible gates, intercom systems, panic alarms, lighting, security screening equipment, window tint, and security assessments. At this time, surveillance cameras are not being funded under this grant.

4. Information and Intelligence Sharing

This category is for the SD Fusion Center. National agencies, law enforcement and businesses share intelligence information to identify threats and people involved in terrorism-related activities. Each state, and a number of cities, have a hub for intelligence and information sharing called Fusion Centers; the Fusion Centers are networked together. The SD Fusion Centers illicit reports of suspicious activity from law enforcement agencies across the state. Information is analyzed and may be sent to the network of Fusion Centers. The Fusion Center continually searches for threats using public and non-public information sites.

5. Emerging Threats

Criminals spread misinformation on websites and social media to create and spread dissention. Criminals continue to try to acquire Weapons of Mass Destruction (WMD). A weapon of mass destruction is a nuclear, radiological, chemical, biological, or other device that is intended to harm a large number of people. Preventing criminals from obtaining WMD is a priority. If a criminal explodes bombs, the effect of the bomb can be mitigated by Taskforce 1, a group of specially trained firefighters. Taskforce 1 rescues people using specialized rescue equipment and training. Active Shooters can be countered through Special Weapons and Tactics (SWAT) teams. Emerging threats can also be unmanned aerial systems, artificial intelligence, and bioterrorism.

6. Operational Communications

Projects under this category follow the SD Public Safety Communication Council statewide plan. Communication equipment is allowable for 1st responders. 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. Examples of allowable expenses: radios compatible with the State Radio system, pagers for 1st responders, programming, radio signal amplifiers, repeaters, generators for public safety answering points (PSAP) and emergency operations centers (EOC), and interoperable communication training and exercises.

Radios and repeaters must be state digital P25 compliant and VHF (Very High Frequency) radio waves. 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.

7. Fire Management and Suppression

Projects under this core capability provide structural fire management as well as hazmat detection, search and rescue, and mitigation of hazardous materials releases or spills with the goal of saving the greatest number of endangered lives in the shortest time possible. Examples of allowable expenses include hazardous materials detection and protection equipment, 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. Expenses may include fire department specialized equipment (i.e. jaws of life, hazmat PPE), training, and exercises.

8. Interdiction and Disruption

This category includes the broad range of activities undertaken by law enforcement to detect, investigate, and counter operations related to potential terrorist activities.

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>)

Section 1: Grant Requirements

Applications for the State Homeland Security Program grant must be submitted in EDGAR, the South Dakota Department of Public Safety Electronic Grant Management System. The link to EDGAR is: <https://sddps.intelligrants.com/> .

A. Pre-Risk Assessment

Each applicant, except state agencies, is required by state law to complete a pre-risk assessment as part of the application. For example, schools, fire departments, and counties are not state agencies and are required to complete the pre-risk assessment in EDGAR.

B. 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 Governments. 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. 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.

C. Required National Cybersecurity Review (NCSR)

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. For more information, see <https://www.fema.gov/IB-439-April-12-2019> or visit <https://www.cisecurity.org/ms-isac/services/ncsr/> .

E. 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.

F. Grant Provisions

1. The beginning and end date for the project will be on the award agreement.
2. Any amendments to award agreements must be in writing and approved by SDHLS.
3. 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.
4. SDHLS retains the right to terminate subawards through the State Homeland Security Grant Program at any time.

G. 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.

H. 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.

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.

Section 2: Federal Administrative Requirements

Sub-recipients are **required to follow all Code of Federal Regulations (CFR)** requirements found in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The most current, complete, and searchable CFR can be found at <https://ecfr.federalregister.gov/> .

The sections below have been included to draw special attention to some of the requirements. Additional SDHLS requirements have been included where applicable.

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)

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 . A guide to searching for a debarment report is available here: [Debarment Search Guide July 2021](#) .

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.

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:

- description of the property
- serial number or other identification number
- source of funding for the property (including the federal award number found on the Grant Sub-Recipient Agreement)
- who holds title
- acquisition date
- cost of the property
- percentage of federal participation in the project costs for the federal subaward under which the property was acquired
- the location
- use
- condition

Note: All equipment must be listed as allowable on FEMA's Authorized Equipment List (AEL), see the following link: www.fema.gov/authorized-equipment-list

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.

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.

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.

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: 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.

SDHLS approval is required prior to disposition. An Equipment Disposition Request Form must be submitted to SDHLS for approval at least 30 days prior to the proposed disposition date. The form is available here: [DisposalRequestForm.pdf](#)

Items of equipment with a current per-unit fair market value more than \$5,000 may be retained by the sub-recipient, transferred, or sold.

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. A sub-recipient cannot transfer equipment to an agency who is not eligible for the grant. The Equipment Transfer Form can be selected at: [EquipmentTransferForm.pdf](#).

If sold, the sub-recipient must return a proportionate share of the federal funds from the sale of the equipment. Please contact the SD Office of Homeland Security with specific information.

Procurement (2 CFR 200.317 through 2 CFR 200.326)

General Requirement. Sub-recipients will follow all federal provisions under 2 CFR 200.318 through 2 CFR 200.326 at <https://www.ecfr.gov/>

Procurement Procedures. 2 CFR 200.318(a). The sub-recipient must use its own documented procurement procedures provided that the procurements conform to applicable State and Federal law. If the sub-recipient does not have a procurement policy, they must follow state procurement policy. Agencies must follow the most restrictive procurement rule whether federal, state, tribal, local, or private, non-profit. Because state procurement policy is more restrictive than the federal policy, state procurement policy is described below.

Procurement Policy Summary:

From 0 - \$3,999 One quote for expenses 0-\$3,999 is required with the application to establish the basis of the funding requested. (This varies from the proscribed state procurement policy). Attach the quote in EDGAR on the application budget form.

Between \$4,000 and \$24,999 At least three (3) written quotes **must be** obtained from qualified sources for purchases with an aggregate cost of \$4,000-\$24,999.

Attach three quotes in EDGAR to the application budget form. 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.

State Contract Pricing Exception. One quote from a vendor under state contract, GSA or NASPO contract is sufficient. You must contact the vendor on the state contract, confirm that you are eligible for state contract pricing, and request a quote for the items and quantity you are applying for. The quote must be attached to the application budget form in EDGAR stating "State or GSA, NASPO contract pricing". State contracts are NOT considered quotes and should NOT be uploaded into EDGAR.

Quotes must be provided on vendor letterhead or vendor receipt. Quotes copied from internet pages without vendor information will not be accepted. The sub-recipient must maintain documentation of the quotes in their grant files.

\$25,000 and over. Proposals for goods must be solicited by advertising for competitive sealed bids or competitive sealed proposals. A brief description of the process for obtaining the proposals must be attached to the application budget form in EDGAR.

General services from \$0-24,999 can be negotiated with a vendor when the sub-recipient considers the cost to be reasonable. A brief description of the process for obtaining the negotiated cost must be attached to the application budget form in EDGAR.

Professional services can be negotiated for expenses from \$0 - \$49,999. Services \$50,000 and over must be solicited by advertising for competitive sealed proposals. Attach a brief description of the process for obtaining the proposals to the application budget form in EDGAR.

Procurement by Non-Competitive Sources (Sole Source). 2 CFR.320 Sole source purchases are not allowed without prior approval.

Complete a Request for Sole Source Purchase Form and submit it in EDGAR prior to entering into a purchase commitment. The Request for Sole Source Purchase Form link is in EDGAR on the budget page and available upon request.

The approved form must be attached to the sub-recipient's reimbursement request.

There are specific circumstances in which a noncompetitive, sole source procurement can be used. Noncompetitive, sole source procurement can only be awarded if one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

Records Retention (2 CFR 200.333)

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.

Equipment records must be retained for the life of the equipment and for three years after final disposition of the equipment.

Sub-recipients must maintain organized grant files containing the following information:

- Copy of the project application and signed Sub-Recipient Award agreement.
- Copy of revisions to the original agreement, if any.
- Copies of all reimbursement requests.
- 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.
- Copies of the capital asset inventory records for grant-funded equipment if applicable.
- Copies of Equipment Disposal/Transfer Forms for grant-funded equipment if applicable.
- Copies of monitoring reports completed by the South Dakota Department of Public Safety if applicable.
- Copies of Environmental and Historic Preservation approvals from FEMA if applicable.
- Copies of completed audits which are relative to the grant project if applicable.

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.

FFATA 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

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, or proposals for a 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.

Access to Records (2 CFR 200.336)

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.

Section 3: State Administrative Requirements

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 the following statewide projects: Fusion Center, SWAT training, and Taskforce 1. The current allocation for statewide projects is \$600,000.

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:

- Maintain current sub-recipient contact information in the system
- DUNS – Data Universal Numbering System, a unique numeric identifier, referred to as a "**DUNS** number" to a single business entity
- Pre-risk Assessment Evaluation
- Each project must focus on an investment justification as described on the application
- Complete and submit required documentation
- Submit reimbursement requests
- Submit required progress reports

Sub-recipient Monitoring

- 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.
- The sub-recipient understands that SDHLS may enforce any of the remedies for noncompliance allowed by state and federal regulations.
- The closeout of a grant does not affect the SDHLS's responsibility to monitor beyond the performance period end date.

Progress Reports

Sub-recipients are **required** to submit a minimum of one progress report on their projects

through the EDGAR system. At least one progress report must be submitted by April 1st of each year and/or before final reimbursement submission.

Environmental and Historic Preservation

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 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, labeled photos and other documentation. 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 sub-recipients a fillable PDF form and instructions when the grant has been awarded. The Environmental and Historic Preservation Screening Form is available at: http://dps.sd.gov/homeland_security/homeland_security_grants.aspx . You will need to save the form as a Word document to your computer.

Contract Approval

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

Reimbursement

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

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 up to the amount noted on your subaward. You are responsible for any difference in cost.

All expenses must have prior approval through the Sub-Recipient Agreement or they will not be reimbursed. Equipment and/or services must be received, and the vendor paid prior to requesting reimbursement. Reimbursement requests must be submitted through EDGAR. Projects must be completed by the subaward end date noted on the Agreement.

Reimbursement requests must be submitted through the EDGAR system no later than 45 days after project completion or after the subaward end date.

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. State rates as of July 1, 2019 are shown below.

In-State			
ARSD 5:01:02:14			
Lodging	\$75.00 + tax		
Meals	Amount	Leave Before	Arrive After
Breakfast	\$ 6.00	5:31 AM	7:59 AM
Lunch	\$ 14.00	11:31 AM	12:59 PM
Dinner	\$ 20.00	5:31 PM	7:59 PM
<i>Daily Maximum</i>	\$ 40.00		

Out-of-State			
ARSD 5:01:02:11			
Lodging	\$175.00 + tax	<i>*additional \$100 available with excess lodging approval</i>	
Meals	Amount	Leave Before	Arrive After
Breakfast	\$ 10.00	5:31 AM	7:59 AM
Lunch	\$ 18.00	11:31 AM	12:59 PM
Dinner	\$ 28.00	5:31 PM	7:59 PM
<i>Daily Maximum</i>	\$ 56.00		

Mileage Reimbursement	
ARSD 5:01:02:01	
\$0.23 per mile	Personal vehicle is used and state motor pool vehicles are available
\$0.42 per mile	Personal vehicle is used and state motor pool vehicles are NOT available

For state or local government-owned vehicles, reimbursement will be made for actual fuel usage supported by receipts.

When non-state employees are unable to obtain state rates for lodging, they are expected to obtain reasonable lodging rates. Receipts for lodging are required for reimbursement.

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.

Documentation. Reimbursement requests must include the following documentation:
Itemized invoices. If the invoice is not itemized, then submit the related proposal or quote in additional to the invoice.

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.

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.

Travel, training, and exercises.

- 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).
- Purpose of travel as it relates to program activities.
- Copy of the agenda or registration form.
- Meals will be reimbursed based on departure and return times; receipts for meals are not required.
- 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 <https://dps.sd.gov/resource-library/TravelDetailWorksheet.pdf-458>
- Rosters of attendees are required for all *hosted* trainings and exercises.
- 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.

Suspension & Debarment Search Documentation. A copy of the debarment search report generated from www.sam.gov must be included with the reimbursement request for aggregate purchases of \$25,000 or more. A guide to searching for a debarment report is available here: [Debarment Search Guide July 2021](#) .

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 State Radio at 605-773-4635 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.

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>

THIRA/SPR

An annual statewide THIRA/SPR (Threat Hazard Identification Risk Assessment/Stakeholders Preparedness Review) is performed each grant year by the SD Office of Homeland Security. Sub-recipients may be asked for their input on this report.

Security Needs Assessment

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

By entering into this Agreement, Sub-Recipient certifies and agrees that it has not refused to transact business activities, it has not terminated business activities, and it has not taken other similar actions intended to limit its commercial relations, related to the subject matter of this Agreement, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Sub-Recipient further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification and agrees such noncompliance may be grounds for termination of this Agreement.

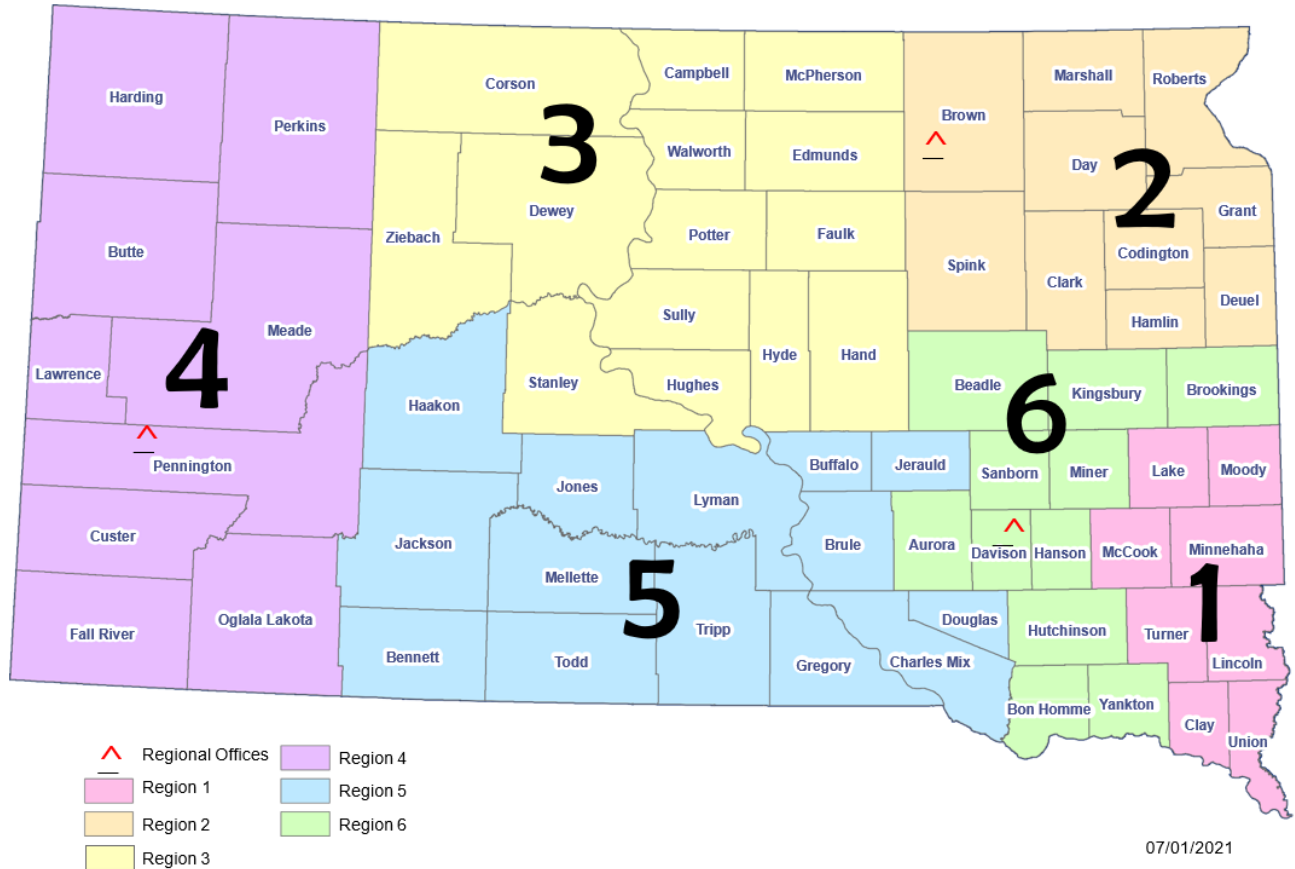
Special Conditions

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 OEM / HLS Regions



When applications have received preliminary programmatic approval through the SD Office of Homeland Security, the applications will be made available to the six regional review committees to review. All grant funding is subject to the federal priorities established by the US Department of Homeland Security.

Each of the six regions will hold a meeting to review and prioritize the applications. 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 met to discuss applications for projects, the regional coordinator will provide the Office of Homeland Security with a list of prioritized projects.

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.

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 1st 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 1st 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
- 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.
- 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 cannot be reimbursed.

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 cannot 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

Nonprofit Security Grant Program (NSGP)

South Dakota receives a separate grant for non-profit agencies at high risk of a terrorist attack. Applications are not submitted through the EDGAR system for this grant. The US Department of Homeland Security provides application forms for the non-profit grants, CFDA #97.008. Applications are submitted to the SD Office of Homeland Security and awards under this grant are decided at the federal level.

Nonprofit organizations should contact the SD Office of Homeland Security to obtain application information and verify the application deadline for the nonprofit organization to apply through the SD Office of Homeland Security. The deadline to submit the NSGP application and the maximum amount that an organization can apply for each year are determined at the federal level.

The Nonprofit Security Grant Program (NSGP) provides funding for physical security enhancements and other security-related activities to nonprofit organizations that are at high risk of a terrorist attack. In addition to physical security enhancements, the following are also allowable: planning, training & awareness, and exercises.

Eligible nonprofit applicants must meet the following criteria:

- Organization must be in South Dakota
- Security improvements must be for a building owned by the organization and occupied at the time of application
- Meet the description under section 501(c)(3) of the Internal Revenue Code of 1986 (IRC) and be exempt from tax under section 501(a) of such code; and
- Be able to demonstrate, through the application, that the organization is at high risk of a terrorist attack.

Examples of allowable projects:

- Physical security enhancements such as access control at entrances, panic buttons, intrusion detectors, fire protection, security lighting, warning signs
- Security cameras (CCTV)
- Security screening equipment for people and baggage such as metal detectors
- Perimeter access control such as fencing, gates, barriers, etc.
- Active shooter training
- Security training for employees
- Public awareness/preparedness campaigns
- Response exercises
- Development of security plans and protocols, emergency contingency plans, and evacuation/shelter in place plans

Application Requirements:

1. Proof of Non-Profit 501(c)3 status

Submit a copy of the organizations 501(c)3 determination letter with the following exception. Churches, mosques, and synagogues are considered automatically exempt if they meet the requirements of IRS section 501(c)3 therefore, they are not required to submit a determination letter.

2. Mission Statement

Include a Mission Statement of the organization on official letterhead, stating the purpose of the organization (who, what, and why), and any policies or practices that may elevate the organization's risk of a terrorist attack.

3. Vulnerability/Risk Assessment

Submit a vulnerability/risk assessment specific to the location/facility for which the nonprofit organization is applying. The assessment must address the threats, vulnerabilities, and consequences of a terrorist attack to the facility. Currently, there are no specific requirements for the vulnerability assessment. Risk assessments can be performed by law enforcement, an independent agency specializing in risk assessments, an emergency manager, or a US Department of Homeland Security representative. **All requests for security enhancements must be identified in the assessment.**

4. Investment Justification (IJ) Application Narrative and Budget

The IJ must be completed in Excel; the form is developed at the federal level and is available upon request to the SD Office of Homeland Security.

The IJ is the application narrative form used to explain your proposed projects. All questions must be answered completely. Projects must be for the locations that the nonprofit occupies and owns at the time of application. Projects must be clearly linked to the vulnerability/risk assessment.

Each section has a number of available points shown on the form. Five extra points are given to organizations that have not received prior year NSGP funding.

The applicant must self-identify their organization as:

- a. Ideology-based/Spiritual/Religious
- b. Educational
- c. Medical, or
- d. Other

5. Quotes for Proposed Projects

Three quotes from separate vendors for proposed project expenses listed in the IJ must be included with the application. The lowest quote must be used unless there is sufficient justification why the organization cannot do so.

Conflict of Interest rules apply to all phases of the grant including quotes.

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The 2021 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2021. These terms and conditions flow down to subrecipients, unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

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](#).

By accepting this agreement, the recipient and its executives, as defined in 2 C.F.R. § 170.315, certify that the recipient's policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

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 Administrative Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to 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>.

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The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

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

Recipients who collect personally identifiable information (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 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

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. 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

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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 3000](#). 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 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. 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. 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 prohibit 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

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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.

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 VI 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-department-supported-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](#), (*NEPA*) [Pub. L. 91-190 \(1970\)](#) (codified as amended at [42 U.S.C. § 4321 et seq.](#) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require 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](#)

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and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

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 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. 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. 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. 110-417, § 872](#), as amended [41 U.S.C. § 2313](#). As required by [Pub. L. 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:

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- 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 information that SAM requires about each proceeding described in paragraph 2 of this award term and condition in the SAM Entity Management area. 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 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 to decide 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.

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- 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 equals or exceeds \$30,000 in federal funds for a subaward to a non-federal entity or federal agency (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.
- 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 federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;
 - 2) In the preceding fiscal year, recipients received—
 - a) Eighty percent or more of recipients' annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the *Federal Funding Accountability and Transparency Act* (Transparency Act), as defined at [2 C.F.R. § 170.320](#) (and subawards); and

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- 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
 - c) 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. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. to determine if the public has access to the compensation information.)
- 3) *Where and when to report.* Recipients must report executive total compensation described in paragraph 2.a. of this award term:
- a) As part of the recipient's registration profile at <https://www.sam.gov>.
 - b) 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) Eighty percent or more of its 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 (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. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. to determine if the public has access to the compensation information.)
- 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.

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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. *Federal Agency* means a federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
- b. *Non-Federal Entity*: means all 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;
- c. *Executive*: means officers, managing partners, or any other employees in management positions.
- d. *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 (for further explanation, see 2 C.F.R. § 200.331).
 - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient or a subrecipient considers a contract.
- e. *Subrecipient*: means a non-federal entity or federal agency 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.
- f. *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.

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- 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.

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.

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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—

- 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.
- 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:

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- 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. Requirements for System for Award Management and Unique Entity Identifier

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at [2 C.F.R. Part 25, Appendix A](#), the full text of which is incorporated here by reference.

2. Definitions

For purposes of this term:

1. *System for Award Management (SAM)*: means the federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found on [SAM.gov](#).
2. *Unique Entity Identifier*: means the identifier assigned by SAM to uniquely identify business entities.
3. *Entity*: includes non-Federal entities as defined at 2 C.F.R. § 200.1 and includes the following, for purposes of this part:
 - a. A foreign organization;
 - b. A foreign public entity;
 - c. A domestic for-profit organization; and
 - d. A federal agency.
4. *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.
 - a. 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).
 - b. A subaward may be provided through any legal agreement, including an agreement that a recipient considers a contract.
5. *Subrecipient* means an entity that:
 - a. Receives a subaward from the recipient under this award; and
 - b. Is accountable to the recipient for the use of the federal funds provided by the subaward.

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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](#).