



Office of the Governor

Public Safety Office

Homeland Security Grants Division
Fund Specific Grant Conditions

Homeland Security Grant Program

FFY 2018 Award

September 2018

About This Document

In this document, grantees (also referred to as subrecipients) will find fund specific federal requirements and conditions applicable to the grant award administered by the Office of the Governor (OOG). These requirements and conditions are incorporated into the Grant Agreement accepted by a grant's Authorized Official.

These requirements are in addition to those that can be found on the eGrants system – including the Grant Application and Grant Award – or in documents identified there, to which grantees agreed when applying for and accepting the grant. Other state and federal requirements and conditions may apply to your grant, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code; Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code; the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made; for federal funding, the Funding Announcement or Solicitation under which OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice (DOJ), the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the grantee.

Any rights or privileges reserved or attributed to the federal awarding agency are also reserved or attributed to OOG, which may exercise them at its discretion.

It is important for grantees to review all of these policies to successfully manage their grant, maintain eligibility for funding, and avoid violating the terms of the Grant Agreement, any of which could result in the revocation of funding or other actions.

For clarification or further information, please see the Guide to Grants and other support materials at <http://eGrants.Gov.Texas.Gov> or contact the grant manager assigned to the relevant grant. If no grant manager has been assigned, please contact the eGrants help desk via email at: eGrants@gov.texas.gov, or via telephone at: (512) 463-1919 or dial 7-1-1 for relay services.

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Article I. Disposition of Equipment

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, the state must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313. Subrecipients should contact HSGD for instructions.

Article II. Procurement of Recovered Materials

Recipients and subrecipients must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. 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.

Article III. Whistleblower Protections

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

Article IV. Use of DHS Seal, Logo and Flags

Recipients and subrecipients 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.

Article V. USA Patriot Act of 2001

Recipients and subrecipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. Sections 175-175c.

Article VI. Civil Rights and Nondiscrimination

Section 6.01 *Civil Rights Act of 1964*

Recipients and subrecipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 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.

Section 6.02 *Limited English Proficiency*

Recipients and subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 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>.

Section 6.03 *Civil Rights Act of 1968*

Recipients and subrecipients must comply with Title VIII of the Civil Rights Act of 1968, 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. Section 3601 et seq.), as implemented by the 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. Section 100.201.)

Section 6.04 *Rehabilitation Act of 1973*

Recipients and subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. Section 794), as amended, 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.

Section 6.05 *Education Amendments of 1972*

Recipients and subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. Section 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.

Section 6.06 *Americans with Disabilities Act of 1990*

Recipients and subrecipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, 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. (42 U.S.C. Sections 12101- 12213).

Section 6.07 *Age Discrimination Act of 1975*

Recipients and subrecipients must comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. Code, Section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Section 6.08 *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. All recipients and subrecipients 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 faith-based organizations in individual DHS programs.

Article VII. Trafficking Victims Protection Act of 2000

Recipients and subrecipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000, (TVPA) as amended by 22 U.S.C. Section 7104. The award term is located at 2 C.F.R. Section 175.15, the full text of which is incorporated here by reference.

Article VIII. Terrorist Financing

Recipients and subrecipients must comply with E.O. 13224 and U.S. law 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.

Article IX. SAFECOM

Recipients and subrecipients 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.

Article X. Debarment and Suspension

Recipients and subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180. 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.

Article XI. Copyrights

Recipients and subrecipients must affix the applicable copyright notices of 17 U.S.C. Sections 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.

Article XII. Personally Identifiable Information

Recipients and subrecipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of 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.

Article XIII. Activities Conducted Abroad

Recipients and subrecipients 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.

Article XIV. 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. If, during the past three years, recipients have been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex, age, disability, religion, or familial status, recipients must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS FAO and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at crcl@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
6. In the event courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS FAO and the CRCL office by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

Article XV. Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients and subrecipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. Section 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. Section 401.14.

Article XVI. Notice of Funding Opportunity

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

Article XVII. Non-Supplanting Requirement

Recipients and subrecipients 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.

Article XVIII. National Environmental Policy Act

Recipients and subrecipients must comply with the requirements of the National Environmental Policy Act (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.

Article XIX. Lobbying

Recipients and subrecipients must comply with 31 U.S.C. Section 1352, which provides that none of the funds provided under an 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.

Article XX. 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. Section 2225a), recipients and subrecipients 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, as amended, (15 U.S.C. Section 2225).

Article XXI. Fly America Act of 1974

Recipients and subrecipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. Section 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. Section 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.

Article XXII. Text Messaging While Driving

All recipients and subrecipients 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.

Article XXIII. Federal Debt

Recipients and subrecipients 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.)

Article XXIV. False Claims Act

Recipients and subrecipients must comply with the requirements of The False Claims Act (31 U.S.C. Section 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. Section 3801-3812 which details the administrative remedies for false claims and statements made.)

Article XXV. Energy Policy and Conservation Act

Recipients and subrecipients must comply with the requirements of The Energy Policy and Conservation Act (42 U.S.C. Section 6201) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXVI. Duplication of Benefit

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.

Article XXVII. Environmental and Historic Preservation Review

The subrecipient must assess federally funded projects for potential impact to environmental resources and historic properties and submit any required screening form(s) as soon as possible within the deadlines established by HSGD. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact. Subrecipients must include sufficient review time to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and HSGD may decide not to authorize or release grant funds for non-compliant projects.

As soon as possible upon receiving this Grant, the subrecipient must provide information to HSGD to assist with the legally-required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Control Number 1660-0115/FEMA Form 024-0-1 and submitting it, with all supporting documentation, to HSGD for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipients must comply with all Federal, State, and local EHP requirements and obtain applicable permits and clearances. See FEMA Policy Number 108-023-1.

The subrecipient shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings. Subrecipients must comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed. Subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered the subrecipient must immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

Article XXVIII. National Incident Management System

During the performance period of this Grant, the subrecipient must implement the NIMS in a manner consistent with the NIMS Implementation Objectives outlined by FEMA at <http://www.fema.gov/national-incident-management-system>. As subrecipients of Federal preparedness (non-disaster) grant awards, jurisdictions and organizations must achieve or be actively working to achieve all of the NIMS Implementation Objectives.

Article XXIX. Operation Stonegarden

The subrecipient is prohibited from drawing down Operation Stonegarden (OPSG) funding provided through this award until each unique, specific or modified county level, tribal or equivalent Operations Order and/or Fragmentary Order (Frago) has been reviewed by FEMA/GPD and Customs and Border Protection/United State Border Patrol (CBP/USBP). HSGD will receive the official notification of approval from FEMA/GPD and then notify the subrecipient.