

**SOUTH DAKOTA OFFICE OF HOMELAND SECURITY  
2015 HSGP TERMS & CONDITIONS**

**A. ACCEPTANCE OF GRANT SUBAWARD AND TERMS & CONDITIONS**

Before you incur costs or receive any federal grant funds awarded to you, the Grant Subaward Agreement must be signed by an authorized signer from your agency and the Director of the South Dakota Office of Homeland Security.

**B. DEFINITIONS**

1. State. *State* refers to the State of South Dakota.
2. SDHLS. *SDHLS* refers to the South Dakota Office of Homeland Security.
3. HSGP. *HSGP* refers to Homeland Security Grant Program.
4. Subaward. *Subaward* refers to an award provided by a pass-through entity (SDHLS) to a subrecipient.
5. Subrecipient. *Subrecipient* refers to a non-Federal entity that receives a subaward from a pass-through entity (SDHLS).
6. Grant Subaward Agreement. The *Grant Subaward Agreement* is the signatory document that commits grant funds to the subrecipient and acknowledges subaward 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.

**C. GRANT PROVISIONS**

1. Subaward Beginning and End Dates. The subaward beginning date is the date of final signature by the Director of SDHLS. The subaward end date is indicated on the Grant Subaward Agreement.
2. Match Provision. There is no match requirement under this agreement.
3. Amendment Provision. Any amendments to this subaward must be in writing and approved by SDHLS.
4. Termination Provision. SDHLS retains the right to terminate subawards through the State Homeland Security Grant Program at any time.

**D. LEGAL PROVISIONS**

1. Funding Out Clause. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this 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. Subrecipients 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 subrecipients 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.** This 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.** In the event that any court of competent jurisdiction shall hold any provision of this 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 this Agreement shall not operate as a waiver of any provision, right or responsibility contained herein.
6. **No Sub-Granting or Assigning.** This Agreement may not be assigned, nor the funds given to a new or additional sub-grantee, without the express prior written consent of the SDHLS. This Agreement 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 this Agreement and shall be bound hereby to all these terms.
7. **No Third Parties.** This Agreement is 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.

#### **E. GRANT REGULATIONS AND GUIDANCE**

Subrecipients must comply with applicable requirements of all state and federal laws, executive orders, regulations, and policies governing this program.

1. **Administrative Requirements, Cost Principles, and Audit Requirements ([Appendix 1](#))**  
Subrecipients are required to follow all CFR requirements found in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. **SDHLS/FEMA Requirements ([Appendix 2](#))**
  1. Concurrence with Statewide Projects
  2. Grant Management System
  3. Subrecipient Monitoring
  4. Environmental
  5. Contract Approval
  6. Reimbursement
  7. Equipment Marking
  8. National Incident Management System (NIMS)
  9. Security Needs Assessment
3. **Federal Agreement Articles ([Appendix 3](#))**
  1. Summary Description of Award
  2. Assurances, Administrative Requirements and Cost Principles
  3. Acknowledgment of Federal Funding from DHS

4. Activities Conducted Abroad
5. Best Practices for Collection and Use of Personally Identifiable Information (PII)
6. Copyright
7. Debarment and Suspension
8. Drug-Free Workplace Regulations
9. Duplication of Benefits
10. False Claims Act and Program Fraud Civil Remedies
11. Federal Debt Status
12. Fly America Act of 1974
13. Hotel and Motel Fire Safety Act of 1990
14. Lobbying Prohibitions
15. Non-Supplanting Requirement
16. Trafficking Victims Protection Act of 2000
17. USA Patriot Act of 2001
18. Use of DHS Seal, Logo and Flags
19. DHS Specific Acknowledgements and Assurances
20. Incorporation by Reference of Funding Opportunity Announcement
21. Acceptance of Post Award Changes
22. Age Discrimination Act of 1975
23. Americans with Disabilities Act of 1990
24. Title VI of the Civil Rights Act of 1964
25. Civil Rights Act of 1968
26. Limited English Proficiency (Civil Rights Act of 1964, Title VI)
27. SAFECOM
28. Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)
29. Rehabilitation Act of 1973

**F. SPECIAL CONDITIONS**

Special conditions (if any) relating to a grant subaward will be stipulated on the Grant Subaward Agreement.

**APPENDIX 1 – ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS**

Subrecipients are required to follow all CFR requirements found in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The below sections have been included to draw special attention to some of the requirements. Additional SDHLS requirements have been included where applicable.

Please refer to the full text of the CFR for complete information: [http://www.ecfr.gov/cgi-bin/text-idx?SID=c576f6aeed9b656b8eaeed9f7ad58c3b&node=pt2.1.200&rgn=div5#se2.1.200\\_1324](http://www.ecfr.gov/cgi-bin/text-idx?SID=c576f6aeed9b656b8eaeed9f7ad58c3b&node=pt2.1.200&rgn=div5#se2.1.200_1324).

- 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)

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

Subrecipients 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).

- a. 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:  
<http://www.sam.gov>.
  - i. The search must be documented with a printscreen of the search results.
  - ii. A copy of the printscreen must be maintained in the grant file and attached to the reimbursement request.
- b. It is recommended that the subrecipient adopt a Suspension and Debarment policy for procurements made with federal funds.
  - i. A sample Suspension and Debarment policy and further instructions on performing a debarment search may be found at:  
[http://dps.sd.gov/homeland\\_security/documents/DebarmentSearchProcedures2015.pdf](http://dps.sd.gov/homeland_security/documents/DebarmentSearchProcedures2015.pdf).

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

- a. Title. 2 CFR 200.313(a). Equipment purchased by the subrecipient with federal award funds is the property of the subrecipient.
- b. Use. 2 CFR 200.313(c)(1). Equipment must be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency.
- c. Property Records. 2 CFR 200.313(d)(1). Property records must be maintained for all items with a per-unit acquisition cost of \$5,000 or more. Property records must include:
  - i. description of the property
  - ii. serial number or other identification number
  - iii. source of funding for the property (including the federal award number found on the Grant Subaward Agreement)
  - iv. who holds title
  - v. acquisition date
  - vi. cost of the property

- vii. percentage of Federal participation in the project costs for the Federal subaward under which the property was acquired
- viii. the location
- ix. use
- x. condition

**Note:** Many property record systems will not allow for the inclusion of all of the required information. In that case, it may be necessary to maintain additional records for property acquired under the federal grant.

A sample Equipment Tracking Form can be selected at: [South Dakota Department of Public Safety: Homeland Security: Homeland Security.](#)

- d. Physical Inventory. 2 CFR 200.313(d)(2). A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- e. Control System. 2 CFR 200.313(d)(3). A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- f. Maintenance Procedures. 2 CFR 200.313(d)(4). Adequate maintenance procedures must be developed to keep the property in good condition.
- g. Disposition or Transfer. 2 CFR 200.313(e). When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, disposition of the equipment will be made as follows:
  - i. Disposition.
    - a. Items of equipment with a current per-unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
      - i. An Equipment Disposition Request Form must be submitted to SDHLS within 30 days of final disposition.
    - b. Items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained by the subrecipient or sold. If sold, the subrecipient must return a proportionate share of the federal funds from the sale of the equipment.
      - i. SDHLS approval is required prior to disposition.
      - ii. An Equipment Disposition Request Form must be submitted to SDHLS for approval at least 120 days prior to the proposed disposition date.
    - c. The Equipment Disposition Request Form can be selected at: [http://dps.sd.gov/homeland\\_security/documents/EquipmentDisposalRequestForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentDisposalRequestForm.pdf).
  - ii. Transfer.
    - a. Items of equipment with an original cost of \$5,000 or more may be transferred to an eligible third party.
      - i. An Equipment Transfer Form must be submitted to SDHLS within 30 days of the transfer.
    - b. The Equipment Transfer Form can be selected at: [http://dps.sd.gov/homeland\\_security/documents/EquipmentTransferForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentTransferForm.pdf).

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

- a. General Requirement. Subrecipients will follow all federal provisions under 2 CFR 200.318 through 2 CFR 200.326.
- b. Procurement Procedures. 2 CFR 200.318(a). The subrecipient must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards found in 2 CFR 300.318. **It is not sufficient to follow the subrecipient's own policies and procedures if they do not meet the federal requirements referenced in section 3.a above.**
- c. Conflict of Interest. 2 CFR 200.318(c)(1). The subrecipient 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.
- d. Competition. 2 CFR 200.319(a). All procurement transactions must be conducted in a manner providing full and open competition.
- e. Methods of Procurement to be Followed. 2 CFR 200.320.
  - i. Micro-purchases, which are aggregate purchase amounts not exceeding \$3,000, may be awarded without soliciting competitive quotations if the subrecipient considers the price to be reasonable.
  - ii. Price or rate quotations **must be** obtained from an adequate number of qualified sources for all purchases with aggregate purchase amounts exceeding \$3,000. A minimum of two quotes or bids are to be obtained. The subrecipient must maintain documentation of quotes in their grant files and be able to justify that an adequate number of quotations were received.
    - a. No further bid solicitation is necessary for purchases made under State of South Dakota contracts or GSA contracts.
  - iii. In addition to the above federal requirements, subrecipients must adhere to all provisions of their own procurement procedures when they are more restrictive than federal requirements.
- f. Procurement by Non-Competitive Sources (Sole Source). 2 CFR.320(f). **Sole source purchases are not allowed without prior approval from SDHLS.**
  - i. Complete a Request for Sole Source Purchase Form and submit it to SDHLS prior to entering into a purchase commitment.
    - a. The Request for Sole Source Purchase Form can be found at [http://dps.sd.gov/homeland\\_security/documents/RequestforSoleSourcePurchase.pdf](http://dps.sd.gov/homeland_security/documents/RequestforSoleSourcePurchase.pdf)
  - ii. The approved form must be attached to the subrecipient's reimbursement request.

### 4. Record Retention (2 CFR 200.333)

- a. Grant records must be retained for three years after the grant is closed.
- b. Equipment records must be retained for the life of the equipment and for three years after final disposition of the equipment.
- c. Subrecipients must maintain organized grant files containing the following information:
  - i. Copy of the project application and signed subaward agreement.
  - ii. Copy of revisions to the original agreement, if any.
  - iii. Copies of all reimbursement requests.

- iv. For aggregate purchases of \$25,000 or more, copy of verifications that the vendor was not on the debarred or excluded list at the time the order was placed.
- v. Copies of the capital asset inventory records for grant-funded equipment.
- vi. Copies of Equipment Disposal/Transfer Forms for grant-funded equipment.
- vii. Copies of monitoring reports completed by the South Dakota Department of Public Safety.
- viii. Copies of Environmental and Historic Preservation approvals from FEMA, if applicable.
- ix. Copies of completed audits which are relative to the grant project.

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

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

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

- Entity Information
- DUNS Number
- Date of Subaward
- Amount of Subaward

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

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

## APPENDIX 2 – SDHLS/FEMA REQUIREMENTS

### 1. Concurrence with Statewide Projects

Supporting the recommendation of the South Dakota Homeland Security Senior Advisory Committee, the subrecipient agrees to use local pass-through funding for four statewide projects: Fusion Center, SWAT training, Regional Response Team expenses, and Homeland Security Conference. The total for these projects is \$600,000.

### 2. Grant Management System

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

- a. Maintain current subrecipient contact information in the system
- b. View funding opportunities
- c. Submit applications
- d. Sign and view award agreements
- e. Review grant Terms & Conditions
- f. Submit reimbursement requests

### 3. Subrecipient Monitoring

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

### 4. Environmental

Projects involving ground disturbance, communication towers, physical security enhancements, and installation of equipment to buildings and structures will be required to meet the requirements of FEMA's Environmental Planning and Historic Preservation (EHP) Program.

Projects that require EHP approval will receive conditional approval until EHP requirements are fulfilled. Work on a project cannot begin until written EHP approval has been received from FEMA.

Subrecipients are required to complete and submit the EHP Screening Form to the Office of Homeland Security with the required photos and other documentation **before** starting projects that require EHP approval. When approval is received from FEMA, SDHLS will notify the subrecipient and the project can begin.

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

### 5. Contract Approval

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

## 6. Reimbursement

**Homeland Security grants are paid on a reimbursement basis; if you are awarded a grant, you must pay for the equipment or services and you will be reimbursed up to the amount of your subaward. You are responsible for any difference in cost.** All expenses must have prior approval through the Grant Subaward Agreement or they will not be reimbursed. Reimbursement requests must be submitted through EDGAR. Projects must be completed by the subaward end date noted on the Grant Subaward Agreement.

- a. Reimbursement requests must be submitted to SDHLS as soon as possible after the project is completed and within 45 days after the end of the subaward end date.
- b. Equipment and/or services must be received and the vendor paid prior to requesting reimbursement.
- c. Travel. Reimbursement for meals, lodging, mileage, and other expenses will follow State policy, except where non-state employees are unable to obtain state lodging rates.
  - i. In-state per diem rates can be found at:  
<http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=05:01:02:14>
  - ii. Out-of-state per diem rates can be found at:  
<http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=05:01:02:11>
  - iii. Mileage rates can be found at:  
<http://legis.sd.gov/rules/DisplayRule.aspx?Rule=05:01:02:01>
    1. For state or local government-owned vehicles, reimbursement will be made for actual fuel usage supported by receipts.
  - iv. When non-state employees are unable to obtain state rates, they are expected to obtain reasonable lodging rates.
  - v. Unallowable travel costs include entertainment charges, tobacco, alcohol or bar charges, laundry charges, visa or passport charges, tips, phone calls, personal hygiene items, in-room movies, magazines, personal transportation (other than to program activities), travel insurance, and credit card fees.
- d. Documentation. Reimbursement requests must include the following documentation:
  - i. **Itemized invoices.** If the invoice is not itemized, then submit the related proposal or quote.
  - ii. **Proof of payment.** Proof of payment should be in the form of a front-and-back copy of the canceled check or a copy of electronic transfer documentation showing payment has been made to the vendor.
  - iii. **Travel and training information.**
    1. Costs must be itemized separately for each traveler (departure and return times, destinations, airfare, lodging; meals, ground transportation to program activities, and other allowable expenses).
    2. Purpose of travel as it relates to program activities.
    3. Copy of the agenda or registration form.
    4. Meals will be reimbursed based on departure and return times; receipts for meals are not required.
    5. If the subgrantee does not have an agency required form to summarize travel costs for grant activity participants, the subgrantee may use the Travel Detail Worksheet form available on the SDHLS website at [http://dps.sd.gov/homeland\\_security/homeland\\_security\\_grants.aspx](http://dps.sd.gov/homeland_security/homeland_security_grants.aspx).
    6. Rosters for all *hosted* trainings and exercises.

- iv. **Suspension & Debarment Search Documentation.** A copy of the print screen from Sam.gov must be included for aggregate purchases of \$25,000 or more. Instructions on performing a debarment search may be found at:  
[http://dps.sd.gov/homeland\\_security/documents/DebarmentSearchProcedures2015.pdf](http://dps.sd.gov/homeland_security/documents/DebarmentSearchProcedures2015.pdf).
- v. **Equipment Transfer Form.** An Equipment Transfer Form must be attached whenever equipment is transferred to another entity. The form is available at:  
[http://dps.sd.gov/homeland\\_security/documents/EquipmentTransferForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentTransferForm.pdf)
- vi. **Request for Sole Source Procurement Form.** An approved Request for Sole Source Procurement Form must be included for any items for which competitive quotes were not received. The form is available at:  
[http://dps.sd.gov/homeland\\_security/documents/RequestforSoleSourcePurchase.pdf](http://dps.sd.gov/homeland_security/documents/RequestforSoleSourcePurchase.pdf)

## 7. Equipment Marking

Subrecipients will mark equipment purchased with HSGP funds with a U.S. Department of Homeland Security identifier. Subrecipients are responsible for requesting decals from SDHLS.

Equipment items that must be marked include:

- Vehicles and Trailers
- Generators
- Communication towers
- Other equipment that can feasibly be marked

Equipment items that do not require marking include:

- Portable communications equipment, such as radios and phones
- Search and rescue equipment
- Decontamination equipment
- Personal protection equipment
- Hand tools
- Disposable equipment

## 8. National Incident Management System (NIMS)

Subrecipients are strongly encouraged to follow the National Incident Management System (NIMS) standards.

## 9. Security Needs Assessment

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

**APPENDIX 3 – FEDERAL AGREEMENT ARTICLES**

NOTE: The Federal Agreement Articles originate from the federal HSGP grant award to the State of South Dakota. Since the 2015 HSGP grant award has not yet been received, the below Federal Agreement Articles are still subject to change.

1. **Summary Description of Award** - The FY 2015 HSGP plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. HSGP funding shall be used for statutorily eligible costs related to the planning, organization, equipment, training, and exercise needs that prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events. This HSGP award to the State of South Dakota consists of State Homeland Security Program (SHSP) funding in the amount of \$3,734,500. This program provides an integrated mechanism that builds and sustains core capabilities to support the Nation's Preparedness against terrorist attacks, major disasters, and other emergencies.

2. **Assurances, Administrative Requirements and Cost Principles**

- a. Recipients of DHS federal financial assistance must complete OMB Standard Form 424B Assurances - Non-Construction Programs. Certain assurances in this document may not be applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions.

The administrative requirements that apply to DHS award recipients originate from two sources:

- Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"). These A-102 requirements are also located within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13.
  - OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.
- b. The cost principles that apply to DHS award recipients through a grant or cooperative agreement originate from one of the following sources:
- OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220.
  - OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225.
  - OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230.
- c. The audit requirements for State, Local and Tribal recipients of DHS awards originate from:
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

3. **Acknowledgment of Federal Funding from DHS** - All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
4. **Activities Conducted Abroad** - All 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.
5. **Best Practices for Collection and Use of Personally Identifiable Information (PII)** - All recipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_guidance\\_june2010.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf) and [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_template.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf), respectively.
6. **Copyright** - All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).
7. **Debarment and Suspension** - All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government.
8. **Drug-Free Workplace Regulations** - All recipients must comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.
9. **Duplication of Benefits** - State, Local and Tribal Recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.
10. **False Claims Act and Program Fraud Civil Remedies** - All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.
11. **Federal Debt Status** - All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.
12. **Fly America Act of 1974** - All 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 B138942.

13. **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. §2225(a), all 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, 15 U.S.C. §2225.
14. **Lobbying Prohibitions** - All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an 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 concerning the award or renewal.
15. **Non-supplanting Requirement** - Recipients who receive 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. Where federal statutes for a particular program prohibits supplanting, applicants or recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.
16. **Trafficking Victims Protection Act of 2000** - All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.  
In accordance with the statutory requirement, each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient -
  - a. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
  - b. Procures a commercial sex act during the period of time that the award is in effect; or
  - c. Uses forced labor in the performance of the award or subawards under the award.Full text of the award term is provided at 2 CFR § 175.15.
17. **USA Patriot Act of 2001** - All recipients must comply with the 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. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.
18. **Use of DHS Seal, Logo and Flags** - All recipients must obtain DHS's approval 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.

19. **DHS Specific Acknowledgements and Assurances** - All recipients must acknowledge and agree—and require any sub-recipients, contractors, successors, transferees, and assignees 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 review or complaint investigation 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 grant 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, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
  6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

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

20. **Incorporation by Reference of Funding Opportunity Announcement** - The Funding Opportunity Announcement for this program is hereby incorporated into your award agreement by reference. By accepting this award, the recipient agrees that all allocations and use of funds under this grant will be in accordance with the requirements contained in the Funding Opportunity Announcement.
21. **Acceptance of Post Award Changes** - In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to [ASK-GMD@dhs.gov](mailto:ASK-GMD@dhs.gov) if you have any questions.
22. **Age Discrimination Act of 1975** - All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
23. **Americans with Disabilities Act of 1990** - All recipients 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. §§ 12101–12213).

24. **Title VI of the Civil Rights Act of 1964** - All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, 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.
25. **Civil Rights Act of 1968** - All recipients 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 (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR 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 CFR § 100.201).
26. **Limited English Proficiency (Civil Rights Act of 1964, Title VI)** - All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) 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. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. 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>.
27. **SAFECOM** - Recipients who receive 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.
28. **Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)** - All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. §

1681 et seq.), which provides 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. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

29. **Rehabilitation Act of 1973 - All recipients of must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual 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. These requirements pertain to the provision of benefits or services as well as to employment.**