

**Alabama Law Enforcement Agency
Homeland Security Grant Program
Subgrant Agreement Terms and Conditions**

Table of Contents

- I. Acceptance of Post Award Changes
- II. Alabama Mutual Aid System (AMAS) Agreement
- III. Audit Requirements
- IV. Bidding Requirements
- V. Budget Worksheet
- VI. Closed-Captioning of Public Service Announcements
- VII. Compliance Agreement
- VIII. Construction and Renovation
- IX. Debarment Certification
- X. De-obligation of Funds
- XI. DHS Specific Acknowledgements and Assurances
- XII. Disposition of Equipment Acquired Under the Federal Award
- XIII. Duplication of Benefits
- XIV. Environmental Planning and Historic Preservation (EHP) Review
- XV. E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety
- XVI. Exercises
- XVII. Financial Responsibility
- XVIII. Fiscal Regulations
- XIX. Individual Consultants
- XX. Leasing of Space
- XXI. National Incident Management System (NIMS)
- XXII. Nondiscrimination in Matters Pertaining to Faith-Based Organizations
- XXIII. Non-Supplanting Agreement
- XXIV. Overtime and Backfill
- XXV. Performance

- XXVI. Personnel and Travel Costs
- XXVII. Political Activity
- XXVIII. Prior Approval for Modification of Approved Budget
- XXIX. Project Implementation
- XXX. Property Management Requirements
- XXXI. Recording and Documentation of Receipts and Expenditures
- XXXII. Reporting Requirement
- XXXIII. Reporting Subawards and Executive Compensation
- XXXIV. SAFECOM
- XXXV. Suspension or Termination of Funding
- XXXVI. Terms of Grant Period
- XXXVII. Utilization of Minority Businesses
- XXXVIII. Utilization and Payment of Funds
- XXXIX. Written Approval of Changes
- XL. DHS Standard Terms and Conditions

I. Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the ALEA award document after an award has been made, including changes to period of performance or terms and conditions, subrecipients will be notified of the changes in writing.

II. Alabama Mutual Aid System (AMAS) Agreement

When funding is provided for AMAS related activities, the Subrecipient agrees to remain a party to the AMAS Agreement.

III. Audit Requirements

The Subrecipient must follow the Audit requirements identified in the Office of Management and Budget Uniform Administrative Requirements, 2 C.F.R. § 200, Subpart F – Audit Requirements. Further, records with respect to all matters covered by this award shall be made available for audit and inspection by the Alabama Law Enforcement Agency (ALEA) and/or any of its duly authorized representatives. If required, the audit report must specifically state that the report

was done in compliance with 2 C.F.R. § 200, Subpart F – Audit Requirements. If a compliance audit is not required, a written certification must be provided at the end of each audit period stating that the Subrecipient has not expended the amount of federal funds that would require a compliance audit. The Subrecipient agrees to accept these requirements.

IV. Bidding Requirements

The Subrecipient must comply with proper competitive bidding procedures as required by 2 C.F.R. § 200, Subpart D, as applicable, applicable provisions of the Code of Alabama 1975, and applicable municipal ordinances, rules, or regulations. Failure to follow the Federal, State, and local required bidding procedures will result in purchases being ineligible for reimbursement with federal funds.

V. Budget Worksheet

The Subrecipient will submit a Budget Worksheet to ALEA via the online grants management system (AGATE) as part of their application. The Subrecipient must receive ALEA's approval of the Budget (via Grant Award Execution) prior to obligating funds, making commitments, or purchasing any of the requested items. The Subrecipient's budget will provide a complete and detailed description of the items to be purchased (equipment, training, and exercises) and a valid estimate of the actual quantities and costs for the items. The budget may only list items allowed in accordance with the FEMA/DHS Homeland Security Grant Program guidance. Any equipment requested must also be listed on the current version of the FEMA AEL. Additionally, a request for Amendment/Budget Revision must be submitted for any addition or deletion of items from the original.

VI. Closed-Captioning of Public Service Announcements

Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of the federal government shall include closed captioning of the verbal content of such announcement.

VII. Compliance Agreement

The Subrecipient agree to abide by all Terms and Conditions including "Special Conditions" placed upon the award by ALEA. Failure to comply could result in a "Hold" or "Stop Payment" being placed on the award.

VIII. Construction and Renovation

The use of HSGP funds for construction and renovation is generally prohibited unless it is a necessary component of a security system at a designated critical infrastructure facility or unless it involves erection of communications towers included in the interoperable communications plan. Construction and renovation projects must be coordinated in advance with ALEA and documented/approved in budget detail worksheets. Additionally, the Subrecipient must provide ALEA, the SAA, appropriate documentation required by HSGP guidance (for submission to FEMA) prior to any draw down of funds. Subrecipient must also refer to and comply with FEMA information bulletin #329, Environmental Planning and Historic Preservation (EHP) Requirements for Grants. Projects which are initiated or completed before an EHP review has been approved, where HSGP funds are to be used, will not be eligible for funding.

IX. Debarment Certification

With the signing of the cooperative agreement, the Subrecipient agrees to comply with Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -Lower Tier Covered Transactions" form. The Subrecipient agrees to be registered and active without any exclusions within the federal database, the System for Award Management (SAM), as outlined in the FEMA/DHS Notice of Funding Opportunity Guide.

X. De-obligation of Funds

All expenditures of award funds must be completed, and the award closed out within thirty (30) calendar days of the end of the award period. Failure to close out the award in a timely manner will result in an automatic de-obligation of the remaining award funds by ALEA.

XI. DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees (all of which are included in the term "Recipients" below) must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

- (a) Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
- (b) 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.
- (c) Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- (d) Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.
- (e) 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>. 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.

XII. Disposition of Equipment Acquired Under the Federal Award

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 a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313. State recipients and state sub-recipients must follow the disposition requirements in accordance with state laws and procedures.

XIII. 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 subrecipients 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.

XIV. Environmental Planning and Historic Preservation (EHP) Review

DHS/FEMA funded activities that may require an EHP review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state, and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and Executive Orders. To access the FEMA EHP screening form and instructions, go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to ALEA along with all other pertinent project information. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP

laws, executive order, regulations, and policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

XV. E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety

Recipient/Subrecipient State, Tribal, local or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

XVI. Exercises

All exercises conducted with Homeland Security Grant Program funding must be executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP), must be aligned with NIMS, the State Threat Hazard Identification and Risk Assessment (THIRA), and the priorities and capabilities identified in the Multi-year Training and Exercise Plan. The Alabama Emergency Management Agency (AEMA) serves as the single point of contact (POC) for Homeland Security and Emergency Management related exercises within the state. All exercises must be coordinated in advance with the designated AEMA exercise point of contact in advance of the exercise planning cycle. The AEMA POC must be kept informed during each step of the exercise process. In accordance with HSGP guidance, award recipients must ensure that an After-Action Report and Improvement Plan are prepared for each exercise conducted with US DHS/FEMA support (grant funds and direct support). The two reports must be coordinated with the AEMA exercise POC and submitted with reimbursement requests.

XVII. Financial Responsibility

The financial responsibility of the Subrecipient must be such that the Subrecipient can properly discharge the public trust which accompanies the authority to expend public funds. Adequate accounting systems shall meet the following minimum criteria:

- (a) Accounting records should provide information needed to adequately identify the receipt of funds under each award and the expenditure of funds for each award;
- (b) Entries in accounting records should refer to subsidiary records and/or documentation which support the entry and which can be readily located;
- (c) The accounting system should provide accurate and current financial reporting information;
- (d) The accounting system should be integrated with an adequate system of internal controls to safeguard the funds and assets covered, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed management policies.

XVIII. Fiscal Regulations

The fiscal administration of awards shall be subject to such further rules, regulations and policies concerning accounting and records, payment of funds, cost allowability, submission of financial reports, etc., as may be prescribed by ALEA guidelines or "Special Conditions" placed on the award.

XIX. Individual Consultants

Billings/Invoices for individual consultants/contractors must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and the total cost of services performed. Individual consultant costs must be within the prevailing rates.

XX. Leasing of Space

Requests to lease space for any purpose must be coordinated in advance with ALEA and documented in the Approved Budget Worksheets. Specific provisions are provided below:

- (a) Equipment Storage: Rental or leasing of space for newly acquired, allowable equipment items is permitted. Funds may be used to cover only the portion of the rental/lease period that occurs during the award project period. Supplanting of previously planned or budgeted activities is strictly prohibited.
Exercises: Rental or leasing of space for design, development, conduct and evaluation of exercises is permitted. This includes the costs related to the rental of space/locations for both exercise planning and conduct.

XXI. National Incident Management System (NIMS)

In expending funds under this program, recipients that are state, local, tribal or territorial governments must ensure and maintain adoption and implementation of NIMS. The state, local, tribal, or territorial government must show adoption of NIMS during any point of the period of performance.

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.

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.

XXIII. Non-Supplanting Agreement

The Subrecipient understands and hereby certifies that federal funds made available under this award will not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources. Applicants or subrecipients may be required to demonstrate that a reduction in nonfederal resources occurred for reasons other than the receipt of federal funds. The Subrecipient will be expected to demonstrate how these funds will be used to supplement, but not supplant, state or local funds for the same purpose. Federal funds must supplement State and local funds, not supplant them.

XXIV. Overtime and Backfill

Subrecipient must read and comply with the funding restrictions provided in Homeland Security Grant Program guidance. A summary of the funding restrictions pertaining to overtime is provided below. Overtime will not typically be authorized with the exception of Operation Stonegarden, and all requests for overtime must be coordinated in advance and approved by ALEA.

XXV. Performance

ALEA may terminate funding or discontinue fund payments upon finding a substantial failure to comply with the laws or regulations governing these funds, including award conditions or other obligations established by ALEA. In the event the Subrecipient has received an award from ALEA but fails to perform the requirements described herein, the full amount of the award made shall be reimbursed to ALEA; however, if the requirements described herein are partially performed, then a proportional reimbursement shall be made to ALEA.

XXVI. Personnel and Travel Costs

The Federal Emergency Management Agency (FEMA)/Department of Homeland Security (DHS) Notice of Funding Opportunity is the source document for all Homeland Security Grant Program related financial matters, including personnel and travel costs. The Subrecipient must comply with the provisions in this guide. This guide is available online and upon request. Personnel and travel costs must comply with local, State and Federal policies and procedures, and policies must be applied uniformly to travel costs. Also note that the FEMA/DHS Notice of Funding Opportunity provides a listing of unauthorized expenses.

XXVII. Political Activity

None of the funds, materials, property, or services provided directly or indirectly under this agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or otherwise in violation of the provisions of the "Hatch Act."

XXVIII. Prior Approval for Modification of Approved Budget

Before making any change to the approved budget for this award, you must request prior written approval from ALEA where required by 2 C.F.R. § 200.308, including the transfer of funds among direct cost categories, programs, functions, or activities.

XXIX. Project Implementation

If a project is not operational within 90 days of the original starting date the Subrecipient must state in the quarterly progress report to ALEA the steps taken to initiate the project, the reasons for the delay, and the expected starting date or operational date.

XXX. Property Management Requirements

Effective control and accountability must be maintained for all award-purchased property. The Subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes. The Subrecipient will ensure proper use, maintenance, protection, and preservation of such property.

- (a) All equipment acquired under a federal award will be stored on public property. Title to non-expendable property acquired in whole or in part with award funds shall be vested with the Subrecipient.
- (b) The federal procedures for managing equipment will be the responsibility of the Subrecipient. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, at a minimum, meet the following requirements:
 - i Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii A physical inventory of the property must be taken and the results reconciled with property records at least once every two years.
 - iii 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.
 - iv Adequate maintenance procedures must be developed to keep the property in good condition.
 - v If the subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (c) Disposition: In accordance with 2CFR §200.313: Equipment shall be used in the program or project for which it was acquired as long as needed, whether or not the

program or project continues to be supported by Federal funds. Property may be retained by the Subrecipient agency and signed out to other NIMS compliant agencies on an as-needed basis, or property may be signed over to another NIMS complaint agency permanently. Property will only be transferred for disposal if it is certified as no longer serviceable and coordinated in advance with ALEA. Theft, destruction, or loss of property shall be reported to ALEA immediately.

(d) Vehicles: The AEL, section 12 (Vehicles) indicates that special-purpose vehicles may be purchased and used only for the transport of CBRNE terrorism response equipment and personnel to the incident site. *These vehicles may not be used for routine administration or daily operations.* Licensing, registration, insurance, and other fees are the responsibility of the jurisdiction and are not allowable under this grant. In addition, general purpose vehicles (patrol cars, executive transportation, etc.), fire apparatus and tactical/armored assault vehicles are not allowable.

(e) Equipment Marking: The Subrecipient agree that, when practicable, any equipment purchased with HSGP funds shall be prominently marked as follows: Purchased with funds provided by the U.S. Department of Homeland Security. Decals displaying the ALEA logo and the above phrasing may be obtained by contacting ALEA.

XXXI. Recording and Documentation of Receipts and Expenditures

The Subrecipient accounting procedures must provide for accurate and timely recording of receipt of funds by source, expenditures made from such source funds, and unexpended balances by source. These records must contain information pertaining to awards, obligations, unobligated balances, assets, liabilities, expenditures, and program income. Controls must be established which are adequate to ensure that expenditures charged to the award are for allowable purposes. Equipment purchases may only include items included in the FEMA Authorized Equipment List (AEL). Additionally, effective control and accountability must be maintained for all award funds, real property, and other assets. Accounting records must be supported by source documentation such as

cancelled checks, paid bills, payroll documentation, time and attendance records, contract documents, award documents, etc.

XXXII. Reporting Requirement

The Subrecipient agrees to submit Quarterly Reporting to ALEA, fifteen (15) days after the end of each quarter. The Subrecipient agrees to submit a Final Report thirty days (30) after the grant end date.

XXXIII. Reporting Subawards and Executive Compensation

Subrecipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

XXXIV. SAFECOM

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. The SAFECOM Guidance is updated annually and can be found at [Funding and Sustainment | CISA](#).

XXXV. Suspension or Termination of Funding

ALEA may suspend, in whole or in part, and/or terminate funding for or impose other sanctions on a Subrecipient or Equipment Recipient for any of the following reasons:

- (a) Failure to comply substantially with the requirements or statutory objectives of 2 C.F.R. 200, Subpart F, or other provisions of Federal Law.
- (b) Failure to adhere to the requirements, standard conditions or special conditions of this award, including property accountability and vehicle usage.
- (c) Proposing or implementing substantial program changes to the extent that, if originally submitted, the agreement would not have been issued.
- (d) Failure to submit reports on a semi-annual basis and as otherwise required.
- (e) Filing a false certification, other report, or document.
- (f) Other good cause shown.

XXXVI. Terms of Grant Period

Funds may not be obligated prior to the effective date of the grant. The final request for payment must be submitted no later than fifteen (15) calendar days after the end of the grant period. Obligations of funds dated after the expiration of the grant period are not eligible for reimbursement.

XXXVII. Utilization of Minority Businesses

Subrecipients and Equipment Recipients are encouraged to utilize qualified minority firms where cost and performance of major contract work will not conflict with funding or time schedules.

XXXVIII. Utilization and Payment of Funds

Funds awarded are to be expended only for purposes and activities included in the approved project plan and budget. Items submitted for reimbursement must be documented in the approved budget in order to be eligible for reimbursement. Claims failing to meet the requirements listed in this subsection are subject to nonpayment.

XXXIX. Written Approval of Changes

Any change to this award must be mutually agreed upon and approved in writing by ALEA, prior to implementation or obligation, and shall be incorporated in written amendments to this award. This procedure for changes to the approved award is not limited to budgetary changes, but also includes changes of substance in project activities and changes in the project director or key professional personnel identified in the approved application.

XL. DHS Standard Terms and Conditions

The Fiscal Year (FY) 2024 Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2024 and flow down to subrecipients unless a term or condition specifically indicates otherwise. For federal awards that may involve continuation awards made in subsequent FYs, these FY 2024 DHS Standard Terms and Conditions will apply to the continuation award unless otherwise specified in the terms and

conditions of the continuation award. The United States has the right to seek judicial enforcement of these terms and conditions.

All legislation and digital resources are referenced with no digital links. These FY 2024 DHS Standard Terms and Conditions are maintained on the DHS website at www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions.

Subrecipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located at 2 C.F.R. Part 200 and adopted by DHS at 2 C.F. R. Part 3002.

§ 3002.10. General Acknowledgements and Assurances

All subrecipients must acknowledge and agree to provide DHS and/or ALEA access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337.

- (a) Subrecipients must cooperate with any DHS and/or ALEA compliance reviews or compliance investigations.
- (b) Subrecipients must give DHS and/or ALEA access 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 and personnel.
- (c) Subrecipients must submit timely, complete, and accurate reports to the appropriate DHS and/or ALEA officials and maintain appropriate backup documentation to support the reports.
- (d) Subrecipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or federal awarding agency program guidance.

- (e) Per 2 CFR 200.501- 200.521, Subrecipient certifies that it will provide notice of any adverse findings which impact this Subaward and will provide access to records as required by parts 2 CFR 200.337 as applicable. If Subrecipient is not subject to the Single Audit Act, then Subrecipient will provide notice of the completion of any required audits and provide access to such audits upon request.

Standard Terms & Conditions

- (f) Acknowledgement of Federal Funding from DHS

Subrecipients must acknowledge their use of federal award 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 award funds.

- (g) Activities Conducted Abroad

Subrecipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.

- (h) Age Discrimination Act of 1975

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

- (i) Americans with Disabilities Act of 1990

Subrecipients 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.

(j) Best Practices for Collection and Use of Personally Identifiable Information

Subrecipients who collect personally identifiable information (PII) as part of carrying out the scope of work under a federal award 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.

(k) Civil Rights Act of 1964 – Title VI

Subrecipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (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. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

(l) Civil Rights Act of 1968

Subrecipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284 (codified as amended at 42 U.S.C. § 3601 *et seq.*) 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, as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units— i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain

accessible features. (See 24 C.F.R. Part 100, Subpart D.)

(m) Copyright

Subrecipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.

(n) Debarment and Suspension

Subrecipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit Subrecipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

(o) Drug-Free Workplace Regulations

Subrecipients 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 the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

(p) Duplicative Costs

Subrecipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior budget period. (See 2 C.F.R. § 200.403(f)). However, Subrecipients may shift costs that are allowable

under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal financial assistance award terms and conditions.

(q) Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (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. Subrecipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 19.

(r) Energy Policy and Conservation Act

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

(s) False Claims Act and Program Fraud Civil Remedies

Subrecipients 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.)

(t) Federal Debt Status

All 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.)

(u) Federal Leadership on Reducing Text Messaging while Driving

Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of E.O. 13513.

(v) Fly America Act of 1974

Subrecipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: [Certificated Air Carriers List | US Department of Transportation, https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list](https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list)) 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.

(w) Hotel and Motel Fire Safety Act of 1990

Subrecipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal award funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a.

(x) John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. The statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal

award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

(y) Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Subrecipients 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>.

(z) Lobbying Prohibitions

Subrecipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds provided under a federal 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. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).

(aa) National Environmental Policy Act

Subrecipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural

Provisions of NEPA, which 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.

(bb) Non-Supplanting Requirement

Subrecipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.

(cc) Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated by reference. All Subrecipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the Award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.

(dd) Patents and Intellectual Property Rights

Subrecipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 *et seq.* and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.

(ee) Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified

as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962) and 2 C.F.R. §200.323. 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.

(ff) Rehabilitation Act of 1973

Subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (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.

(gg) Reporting of Matters Related to Recipient Integrity and Performance

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 the federal award, then the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Subrecipients Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated by reference.

(hh) Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Subrecipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

When necessary, subrecipients may request that the Recipient applies for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

- (a) When the Federal agency has determined that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
 - (1) applying the domestic content procurement preference would be inconsistent with the public interest;

- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at ["Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov](#).

The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.

(ii) Terrorist Financing

Subrecipients must comply with E.O. 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the E.O. and laws.

(jj) Trafficking Victims Protection Act of 2000 (TVPA)

Subrecipients must comply with the requirements of the government-wide financial assistance award term which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106- 386, § 106 (codified as amended at 22 U.S.C. § 7104). The award term is located at 2C.F.R. § 175.15, the full text of which is incorporated by reference.

(kk) Universal Identifier and System of Award Management

Direct subrecipients 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. Lower tier subrecipients are not required to register in SAM.gov.

(ll) USA PATRIOT Act of 2001

Subrecipients 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.

(mm) Use of DHS Seal, Logo and Flags

Subrecipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

(nn) Whistleblower Protection Act

Subrecipients must comply with the statutory and regulatory requirements for whistleblower protections at 10 U.S.C § 470141 U.S.C. § 4712 and 2 C.F.R. § 200.217 Whistleblower protections. Subrecipient is hereby notified that they are required to: inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the program; inform their employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a contractor or subgrantee.