

**SOUTH DAKOTA OFFICE OF EMERGENCY MANAGEMENT  
2017 STATE & LOCAL AGREEMENT 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 Emergency Management.

**B. DEFINITIONS**

1. **State.** *State* refers to the State of South Dakota.
2. **SDOEM.** *SDOEM* refers to the South Dakota Office of Emergency Management.
3. **EMPG.** *EMPG* refers to the federal Emergency Management Performance Grant.
4. **SLA.** *SLA* refers to the State and Local Agreement.
5. **EMF.** *EMF* refers to Emergency Management Functions.
6. **Subaward.** *Subaward* refers to an award provided by a pass-through entity (SDOEM) to a subrecipient.
7. **Subrecipient.** *Subrecipient* refers to a non-Federal entity that receives a subaward from a pass-through entity (SDOEM).
8. **Grant Subaward Agreement.** The *Grant Subaward Agreement* is the signatory document that commits grant funds to the subrecipient and acknowledges subaward terms and conditions.

**C. 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.** Subrecipient agrees, 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 Subrecipient 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 SDOEM. This Agreement may not be amended except in writing, which writing shall be expressly

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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.

**D. GRANT PROVISIONS**

1. **SLA Goal.** To protect South Dakota's citizens and their property from the effects of natural, manmade, and technological disasters through a comprehensive emergency management program of preparedness, response, recovery, and mitigation.
2. **Purpose.** The SDOEM SLA provides a single funding, operating, and reporting instrument for the accomplishment of agreed upon activities and products under the included performance activities to justify local funding assistance. The Agreement, in particular, acknowledges that preparedness, response, recovery, and mitigation activities apply to and are required for natural, manmade, and technological disasters in South Dakota.
3. **Scope of Work.** Objectives to be accomplished and projects to be produced by the county/district are specified in each Emergency Management Function (EMF) as identified in the State & Local Agreement Workplan. **100% of the objectives must be completed.**
4. **Period of Performance.** The period of performance for this agreement shall be the Federal Fiscal Year 2017 from October 1, 2016 to September 30, 2017 except for final reports and audit requirements.
5. **Match Provision.** This is a 50% match grant. The subrecipient must match all reimbursement requests with an equal amount of non-federal funds.
6. **General Requirements.** The following items are identified as general requirements of the grant:
  - a. Complete surveys, assessments, other grant requirements, etc. as requested by SDOEM.
  - b. If the State EOC is activated, impacted counties requesting resources must activate and staff their local EOC.
  - c. Report events to OEM Duty Officer in a timely manner using current reporting guidelines. (Current guidelines are available in the File Library of WebEOC in the County EM – SDOEM Administration folder).
  - d. Ensure all newly elected or appointed officials have provided their contact information to SDOEM for inclusion in the South Dakota Health Alert Network (HAN). If this information was provided in the annual reporting requirements for County and Municipal Contacts, no further action is required.
  - e. If a county has received a Presidential disaster declaration, assist the State with applicant briefings and accompany the State-FEMA inspection team to random kick-off meetings and site inspections, and observe the write-up of a project worksheet.
  - f. Serve as the County Point of Contact for purposes of equipment monitoring for the EMPG and Homeland Security Grant programs conducted by DPS.

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**7. Agreement Officials.**

- a. The Director of SDOEM is responsible for committing the state to the terms of this Agreement.
- b. The County Commission Chairperson is responsible for committing the County to the terms of this Agreement.
- c. The County Emergency Management Director shall be the principal official responsible for planning, reporting on, and assuring performance objectives and accomplishments of results, as defined in the Agreement.

**8. Costs, Award Amounts, and Payments.**

- a. The State shall not be liable under this Agreement for any amount greater than the amount available to each county through their grant subaward agreement.
- b. No costs eligible under this Agreement shall be incurred before October 1, 2016.

**9. Quarterly Reporting Requirements.** All quarterly financial reports and activity reports are due no later than 15 days after the end of each quarter.

- a. Failure to submit the quarterly financial report will result in a reminder.
- b. Failure to submit reports within one week of receiving the reminder will result in a letter of non-performance to the County Commission/District Chairperson.
- c. Failure to comply with the reporting requirements of this agreement may result in loss of program funding or additional monitoring requirements.

**10. Work Item Reporting Requirements.** All work items, reports, and other deliverables identified within the SLA Work Plan will be considered late 7 days after each respective identified due date.

- a. When work items, reports, or other deliverables are considered late, it will result in a reminder.
- b. Failure to submit work items, reports, or other deliverables within one week of receiving the reminder will result in a letter of non-performance to the County Commission/District Chairperson.
- c. Failure to comply with the reporting requirements of this agreement may result in loss of program funding or additional monitoring requirements.

**11. County Emergency Manager Work Schedule.** The County Emergency Manager must maintain a work schedule commensurate with the percentage of time funded by this grant for Emergency Management functions. Percentage of time worked on Emergency Management functions must be documented in timekeeping records utilizing the State timesheet.

**12. Non-Performance.** Failure to comply with the terms of this agreement, without justification and acceptance by the State, may subject the subrecipient to the withholding of any funds, from whatever source, provided under this agreement or additional monitoring requirements.

**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.

- 1. Personnel
- 2. Suspension & Debarment

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3. Equipment
4. Procurement
5. Record Retention
6. FFATA
7. Access to Records

**2. SDOEM/FEMA Requirements**

1. SDCL 1-56-10 Grant agreements with nonstate agencies to be displayed on website. The grant agreement for each grant, pass-through grant, or any other award granted by a state agency to a nonstate agency after July 1, 2016, shall be displayed on the website created pursuant to 1-27-45. Each grant agreement shall include an attestation by the award recipient or sub-recipient that:
  - a. A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
  - b. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipients website;
  - c. An effective internal control system is employed by the recipient's or sub-recipient's organization; and
  - d. If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.
2. SLA Administrative Manual. Subrecipients are required to follow all provisions found in the SDOEM SLA Administrative Manual found in WebEOC.
3. Emergency Management Function (EMF) Objectives. Subrecipients are required to meet all mandatory and tailored EMF objectives as defined in the SDOEM State & Local Agreement Workplan.
4. NIMS. Subrecipients are required to comply with National Incident Management System (NIMS) standards.
5. Subrecipient Monitoring
  - a. SDOEM 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 SDOEM may enforce any of the remedies for noncompliance allowed by state and federal regulations.

The closeout of a grant does not affect the SDOEM's responsibility to monitor beyond the performance period end date.

**3. Federal Agreement Articles (Appendix 2)**

1. Assurances, Administrative Requirements, Cost Principles, and Audit Requirements
2. DHS Specific Acknowledgements and Assurances
3. Civil Rights Act of 1964 – Title VI
4. Civil Rights Act of 1968
5. Copyrights
6. Debarment and Suspension
7. Drug-Free Workplace Regulations
8. Duplication of Benefits

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9. Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX
10. Energy Policy and Conservation Act
11. False Claims Act and Program Fraud Civil Remedies
12. Federal Debt Status
13. Federal Leadership on Reducing Text Messaging while Driving
14. Acknowledgement of Federal Funding from DHW
15. Activities Conducted Abroad
16. Age Discrimination Act of 1974
17. Americans with Disabilities Act of 1990
18. Best Practices for Collection and Use of Personally Identifiable Information (PII)
19. Fly American Act of 1974
20. Hotel and Motel Fire Safety Act of 1990
21. Limited English Proficiency (Civil Rights Act of 1964, Title VI)
22. Lobbying Prohibitions
23. Non-supplanting Requirement
24. Notice of Funding Opportunity Requirements
25. Patents and Intellectual Property Rights
26. Procurement of Recovered Materials
27. Reporting Subawards and Executive Compensation
28. SAFECOM
29. Terrorist Financing
30. Trafficking Victims Protection Act of 2000
31. Reporting of Matters Related to Recipient Integrity and Performance
32. Universal Identifier and System of Award Management (SAM)
33. USA Patriot Act of 2001
34. Use of DHS Seal, Logo and Flags
35. Whistleblower Protection Act

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**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 SDOEM 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. Personnel (2 CFR 200.430(i))**

Subrecipients must maintain detailed timekeeping and payroll records for all positions funded by this grant. Records must meet the requirements defined in 2 CFR 200.430(i) *Standards for Documentation of Personnel Expenses*. See the Code of Federal Regulations for the full text.

- a. Subrecipients must use the SDOEM Daily Timekeeping Record Form located in WebEOC.

**2. 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>.
  1. The search must be documented with a print screen of the search results.
  2. A copy of the print screen 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.
  1. 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).

**3. 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:
  1. description of the property

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2. serial number or other identification number
  3. source of funding for the property (including the federal award number found on the Grant Subaward Agreement)
  4. who holds title
  5. acquisition date
  6. cost of the property
  7. percentage of Federal participation in the project costs for the Federal subaward under which the property was acquired
  8. the location
  9. use
  10. condition
- 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:
1. 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.
      1. An Equipment Disposition Request Form must be submitted to SDOEM 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.
      1. SDOEM approval is required prior to disposition.
      2. An Equipment Disposition Request Form must be submitted to SDOEM for approval at least 120 days prior to the proposed disposition date.
    - c. The Equipment Disposition Request Form can be selected at:  
[http://dps.sd.gov/homeland\\_security/documents/EquipmentDispositionRequestForm.pdf](http://dps.sd.gov/homeland_security/documents/EquipmentDispositionRequestForm.pdf).
  2. Transfer.
    - a. Items of equipment with an original cost of \$5,000 or more may be transferred to an eligible third party.
      1. An Equipment Transfer Form must be submitted to SDOEM 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).

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**4. 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 subrecipients 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.
  1. 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.
  2. 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.
  3. 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 SDOEM.**
  1. Complete a Request for Sole Source Purchase Form and submit it to SDOEM 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)
  2. The approved form must be attached to the subrecipient's reimbursement request.

**5. 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:
  1. Copy of the project application and signed subaward agreement.
  2. Copy of revisions to the original agreement, if any.
  3. Copies of all reimbursement requests.



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4. 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.
5. Copies of the capital asset inventory records for grant-funded equipment.
6. Copies of Equipment Disposal/Transfer Forms for grant-funded equipment.
7. Copies of monitoring reports completed by the South Dakota Department of Public Safety.
8. Copies of Environmental and Historic Preservation approvals from FEMA, if applicable.
9. Copies of completed audits which are relative to the grant project.

**6. 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

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

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.

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**APPENDIX 2 – FEDERAL AGREEMENT ARTICLES**

***NOTE: The Federal Agreement Articles originate from the federal EMPG grant award to the State of South Dakota. Since the 2017 EMPG grant award has not yet been received, the below Federal Agreement Articles are still subject to change.***

**Article I - Assurances, Administrative Requirements, Cost Principles, and Audit Requirements**

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

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

DHS financial assistance recipients must complete either the OMB Standard Form 424B Assurances - Non-Construction Programs or OMB Standard Form 424D Assurances - Construction Programs as applicable.

Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the financial assistance office if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

**Article II - DHS Specific Acknowledgements and Assurances**

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

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

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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 financial assistance office and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at [crcl@hq.dhs.gov](mailto:crcl@hq.dhs.gov) or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.

6. In the event 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 financial assistance office and the CRCL office by e-mail or mail at the addresses listed above.

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

### **Article III - Civil Rights Act of 1964 - Title VI**

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

### **Article IV - 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 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. 100.201).

### **Article V - 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.

### **Article VI - Debarment and Suspension**

All recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

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**Article VII - 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 all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Acts implementing regulations at 2 C.F.R Part 3001.

**Article VIII - Duplication of Benefits**

Any cost allocable to a particular Federal award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude a recipient from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.

**Article IX - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX**

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19

**Article X - Energy Policy and Conservation Act**

All recipients must comply with the requirements of 42 U.S.C. 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**Article XI - False Claims Act and Program Fraud Civil Remedies**

All recipients must comply with the requirements of 31 U.S.C. 3729-3733 which prohibits the submission of false or fraudulent claims for payment to the Federal Government. See 31 U.S.C. 3801-3812 which details the administrative remedies for false claims and statements made.

**Article XII - 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.

**Article XIII - Federal Leadership on Reducing Text Messaging while Driving**

All recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official Government business or when performing any work for or on behalf of the federal government.

**Article XIV - 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.

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**Article XV - 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.

**Article XVI - Age Discrimination Act of 1975**

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

**Article XVII - 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).

**Article XVIII - Best Practices for Collection and Use of Personally Identifiable Information (PII)**

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template respectively.

**Article XIX - 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 B-138942.

**Article XX - Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, 15 U.S.C. 2225a, 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*, as amended, 15 U.S.C. 2225.

**Article XXI - 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. 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>.

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**Article XXII - 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.

**Article XXIII - Non-supplanting Requirement**

All 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.

**Article XXIV - Notice of Funding Opportunity Requirements**

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

**Article XXV - Patents and Intellectual Property Rights**

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

**Article XXVI - Procurement of Recovered Materials**

All recipients must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

**Article XXVII - Reporting Subawards and Executive Compensation**

All recipients 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 terms and conditions of your award.

**Article XXVIII - SAFECOM**

All 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.

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**Article XXIX - Terrorist Financing**

All recipients must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the Order and laws.

**Article XXX - 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 of 2000*, (TVPA) as amended (22 U.S.C. 7104). The award term is located at 2 CFR 175.15, the full text of which is incorporated here by reference in the terms and conditions of your award.

**Article XXXI - Rehabilitation Act of 1973**

All recipients 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.

**Article XXXII - Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance office exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the terms and conditions of your award.

**Article XXXIII - Universal Identifier and System of Award Management (SAM)**

All recipients are required to comply with the requirements set forth in the government-wide Award Term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference in the terms and conditions of your award.

**Article XXXIV - USA Patriot Act of 2001**

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

**Article XXXV - Use of DHS Seal, Logo and Flags**

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

**Article XXXVI - Whistleblower Protection Act**

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