



GOVERNOR GREG ABBOTT

To: HSGD Grant Recipient
From: Aimee Snoddy, Director Homeland Security Grants Division
Contact: (512) 463-1919
Reference: Subrecipient Responsibilities

Congratulations on your grant award from Governor Greg Abbott's Homeland Security Grants Division (HSGD). It is important to make you aware of a few things to consider as you implement strategies to successfully manage your program. For more information and resources, refer to the Grant Resources section of eGrants available online at <https://eGrants.gov.texas.gov>.

SECTION I: APPLICABLE TO ALL HSGD SUBRECIPIENTS

Requirements for Grants - Subrecipients shall comply with all applicable federal, state, and local laws and regulations applicable to this Grant including but not limited those noted as standard Comprehensive Certifications and Assurances (See Attachment A); 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Texas Government Code, Chapter 783, Uniform Grant and Contract Management; and the Texas Uniform Grants Management Standards (UGMS) available at <http://www.window.state.tx.us/procurement/catrad/ugms.pdf>. HSGD reserves the right to add additional responsibilities and requirements, with or without advance notice to subrecipients.

Performance Standards – The subrecipient shall perform all activities entered into eGrants which are approved by HSGD. In the event the subrecipient fails to implement the activities approved by HSGD or comply with any provision of this Grant, the subrecipient may be liable to HSGD for an amount not to exceed the award amount and may be prohibited from applying for or receiving additional funds for other grant programs administered by the Governor's Office until repayment to HSGD is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this Grant.

Performance Period - The performance period for this Grant is listed on the Statement of Grant Award. All goods must be obligated and all services must be received within the performance period. HSGD will not be obligated to reimburse expenses incurred after the performance period.

Liquidation Period - The liquidation date is 90 calendar days after the grant end date, unless otherwise noted in the original grant award or a grant adjustment. Funds **not** obligated by the end of the grant period and **not** expended by the liquidation date will revert to HSGD.

Financial Reporting – Financial Status Reports must be submitted to HSGD via eGrants. Financial status reports may be submitted monthly but must be submitted at least quarterly. Financial Status Reports are due after each calendar quarter regardless of when the Grant was awarded. Due dates are:

April 22 (January-March quarter)
July 22 (April-June quarter)
October 22 (July-September quarter)
January 22 (October-December quarter)

The final Financial Status Report must be submitted to HSGD on or before the grant liquidation date or funds will lapse and HSGD will provide them as grants to others who need the funding.

Close Out – HSGD will close-out the grant award when it determines that all applicable administrative actions and all required work of the Grant have been completed by the subrecipient.

- The subrecipient must submit all financial, performance, and other reports as required by the terms and conditions of the grant award. Submission of the final Financial Status Report will initiate grant close out with HSGD.
- The subrecipient must promptly refund any balances of unobligated cash that the HSGD paid in advance or paid and that are not authorized to be retained by the subrecipient for use in other projects.

Payment Authorization – Payments will be generated based on expenditures reported in the Financial Status Reports or through Advance Payment Requests. Upon HSGD approval of the Financial Status Report or Advance Payment Request, a payment will be issued through direct deposit or electronic transfer.

Generated Program Income (GPI) – Any income generated as a direct result of the grant activities must be reported to HSGD through the Financial Status Report and grant adjustment processes. Program income must be used to offset project costs unless prior approval is granted allowing a supplement to project costs. Program income must be expended prior to seeking payments from HSGD and must be accounted and used for the purposes of the grant activities as awarded.

Grant Funded Personnel – Staff whose salaries are supported by this award must be made aware that continued funding is contingent upon the availability of appropriated funds as well as the outcome of the annual application review conducted by HSGD.

Project Changes – Subrecipients may submit a request for grant adjustment via eGrants for any proposed budgetary or programmatic changes, including updating contact information for grant officials.

Property Management and Inventory - Equipment purchased with grant funds must be used for the purpose of the Grant and as approved by HSGD. An inventory report must be kept on file

containing all equipment purchased with any grant funds during the grant period. This report must agree with the approved grant budget and the final Financial Status Report.

- At least every two (2) years, subrecipients must take a physical inventory and reconcile the results with property records.
- Subrecipients must maintain property/inventory records which, at minimum, include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- Subrecipients must develop and implement a control system to prevent loss, damage or theft of property and investigate and document any loss, damage or theft of property funded under this Grant.
- The subrecipient must account for any real and personal property acquired with grant funds or received from the Federal Government in accordance with 2 C.F.R. 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property. This documentation must be maintained by the subrecipient, according to the requirements listed herein, and provided to HSGD upon request, if applicable.
- When original or replacement equipment acquired under this award by the subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA or HSGD, you must make proper disposition of the equipment pursuant to 2 C.F.R. 200.313 and/or the Uniform Grant Management Standards (UGMS), as applicable.

Fidelity Bond – Each nonprofit corporation receiving funds from HSGD must obtain and have on file a blanket fidelity bond that indemnifies HSGD against the loss or theft of the entire amount of grant funds, including matching funds. The fidelity bond should cover at least the HSGD grant period.

Required Notifications – Subrecipients must immediately notify HSGD in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. Subrecipients must notify the local prosecutor's office of any possible criminal violations. Subrecipients must immediately notify HSGD in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the subrecipient must immediately forward a copy of any demand notices, subpoenas, lawsuits, or indictments to HSGD. If a federal or state court or administrative agency renders a judgment or order finding discrimination by a subrecipient based on race, color, national origin, sex, age, or handicap, the subrecipient agrees to immediately forward a copy of the judgment or order to HSGD.

Project Effectiveness – Subrecipients should regularly evaluate the effectiveness of their projects. This includes a reassessment of project activities and services to determine whether they continue to be effective. Subrecipients must show that their activities and services effectively address and achieve the project's stated purpose.

Programmatic Reporting – Subrecipients must submit required reports regarding grant information, performance, and progress towards goals and objectives in accordance with the instructions provided by HSGD, or its designee. To remain eligible for funding, the subrecipient must be able to show the scope of services provided and the impact and quality of those services.

Monitoring – Subrecipients must readily make available to the Governor's Office or its agents all requested records. The Governor's Office may make unannounced monitoring visits at any time. The subrecipient must make every effort to resolve all issues, findings, or actions identified within the time frame specified by the Governor's Office.

For Fiscal Years Beginning Before December 26, 2014 Subrecipients expending over \$500,000 in state or federal grant funds during the fiscal year are subject to the Single Audit requirements set forth in OMB Circular No. A 133 at <http://www.whitehouse.gov/omb/circulars/index.html> and the State Single Audit Circular issued under UGMS at <http://www.window.state.tx.us/procurement/catrad/ugms.pdf>. Subrecipients must electronically submit to the Governor's Office copies of the results of any single audit conducted in accordance with OMB Circular No. A-133 or in accordance with the State Single Audit Circular issued under UGMS, within 30 calendar days after the subrecipient receives the audit results or nine months after the end of the audit period, whichever is earlier.

For Fiscal Years Beginning On or After December 26, 2014 Subrecipients expending over \$750,000 in state or federal grant funds during the fiscal year are subject to 2 CFR, Part 200, Subpart F – Audit Requirements http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl and the State Single Audit Circular issued under UGMS at <http://www.window.state.tx.us/procurement/catrad/ugms.pdf>. Subrecipients must electronically submit to the Governor's Office copies of the results of any single audit conducted in accordance with 2 CFR, Part 200, Subpart F – Audit Requirements or in accordance with the State Single Audit Circular issued under UGMS, within 30 calendar days after the Subrecipient receives the audit results or nine months after the end of the audit period, whichever is earlier

Supplanting – Awarded funds must be used to supplement existing funds for program activities and not replace (supplant) funds that have been appropriated for the same purpose. Grant monitors and auditors will look for potential supplanting during reviews. Violations may result in a range of penalties, including suspension of future funds, suspension or debarment from receiving federal or state grants, recoupment of monies provided under the Grant, and civil or criminal penalties. Refer to the Guide to Grants at <https://eGrants.gov.texas.gov/updates.aspx> for additional information on supplanting.

Conflict of Interest – Subrecipients should have in place established safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

Contracting and Procurement – Subrecipients must follow their established policy and best practices for procuring goods or services with grant funds. Contracts must be routinely monitored for delivery of services or goods.

- When contractual or equipment procurement is anticipated to be in excess of \$150,000, subrecipients must submit a Procurement Questionnaire <https://eGrants.gov.texas.gov/updates.aspx> to HSGD for approval prior to procurement. Subrecipients must ensure these contracts address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.
- When contractual or equipment procurement is anticipated to be in excess of \$10,000, subrecipients must address termination for cause and for convenience by the subrecipient including the manner by which it will be effected and the basis for settlement.
- Prior to contracting with any vendor or subawardee using funds awarded under this Grant, subrecipients must determine whether the vendor/subawardee is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department and agency and shall confirm the vendor/subawardee does not have any active “Exclusions” by reviewing the vendor/subawardee entity information at <https://www.sam.gov/portal/public/SAM/>.

Travel – Subrecipients must follow their established policies and good fiscal stewardship related to travel expenses. If the subrecipient does not have established policies regarding in-state and out-of-state travel, the subrecipient must use the travel guidelines established for state employees.

Uniform Crime Reporting – Local units of governments receiving funds from HSGD must comply with all requirements for uniform crime reporting and must ensure that prompt reporting will remain current throughout the grant period.

Criminal History Reporting - Entities receiving funds from HSGD must comply with all requirements outlined in the Texas Code of Criminal Procedure, Ch. 60, related to maintaining and reporting criminal history records.

Limited English Proficiency – Subrecipients must take reasonable steps to ensure that persons with limited English proficiency have meaningful access to services. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. Additional information on this requirement can be found at <http://www.lep.gov>.

Law Enforcement Programs – Law enforcement programs receiving funds from HSGD must be in compliance with all rules developed by the Texas Commission on Law Enforcement.

Automated License Plate Readers - Subrecipients requesting funds for Automated License Plate Readers (ALPR) must have a written policy regarding use of the ALPR and related data

retention. Subrecipients also must enter into a User Agreement with the Texas Department of Public Safety (DPS), Crime Records Division to gain access to the Texas Automated License Plate Reader (LPR) Database so that data may be shared among all participating local, state, and federal agencies. DPS Crime Records Division will provide written certification of your jurisdiction's participation upon request. Please provide HSGD with a copy of the certification received from DPS Crime Records Division.

28 C.F.R. Part 23 Guidance - Any information technology system funded or supported by these funds must comply with 28 C.F.R. Part 23, *Criminal Intelligence Systems Operating Policies*.

National Information Exchange Model (NIEM) – Subrecipients must use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language (XML) when using HSGP funds to develop, procure, or implement homeland security information exchanges including systems and databases. Further information about NIEM specifications and guidelines is available at <http://www.niem.gov>.

Programs Approved to Pay Overtime for Personnel - Overtime is allowable to the extent that it is included in the HSGD approved budget, the subrecipient agency has an overtime policy approved by its governing body, and both grant-paid and non-grant paid personnel are treated the same with regards to the application of overtime policy(ies). In addition, in no case is dual compensation allowable. That is, an employee of a subrecipient agency may not receive compensation for hours worked (including paid leave) from his/her agency AND from an award for a single period of time, even though such work may benefit both activities. Overtime payments issued outside of these guidelines are the responsibility of the subrecipient agency.

Cancellation for Awards - Subrecipients must take reasonable steps to commence project activities upon receiving notice of a grant award:

Commencement Within 60 Days. If a project is not operational within 60 days of the original start date of the award period or grant award date as noted on this memorandum, whichever is later, the subrecipient must report by letter to HSGD the steps taken to initiate the project, the reasons for delay, and the expected revised start date.

Commencement Within 90 Days. If a project is not operational within 90 days of the original start date of the award period or grant award date as noted on this memorandum, whichever is later, the subrecipient must submit a second statement to HSGD explaining the implementation delay. Upon receipt of the 90-day letter, HSGD may cancel the project and redistribute the funds to other project areas. HSGD may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period.

Public Information Requests - Subrecipients must immediately notify and provide a copy to HSGD of any Public Information Request received by the agency related to this Grant award.

Prohibited Acts of Agencies and Individuals - Grant funds may not be used in connection with the following acts by agencies or individuals employed by grant funds:

- Grant funds may not be used to finance or otherwise support the candidacy of a person for an elected local, state, or federal office. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection. In addition, grant-funded or grant-leased motor vehicles may not be used for the purpose described above.
- Grant funds may not be used to influence the payment, loan, or gift to a person or political organization for a political purpose, or to influence the passage or defeat of legislation.
- Grant funds may not be used to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 of the Government Code to register as a lobbyist. Furthermore, grant funds may not be used to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 of the Government Code to register as a lobbyist.
- Grant funds may not be used to compensate an officer or employee who uses alcoholic beverages on active duty. In addition, grant funds may not be used to purchase an alcoholic beverage or to pay or reimburse a travel expense that was incurred for an alcoholic beverage.
- Subrecipients must comply with the federal Hatch Act (5 U.S.C. §§ 1501- 1508) which restricts the political activity of some state and local employees who work in connection with federally funded programs. Covered state and local employees may not: 1) be candidates for public office in a partisan election; 2) use official authority or influence to interfere with or affect the results of an election or nomination; or, 3) directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

Retention and Accessibility of Records - Subrecipients must maintain fiscal records and supporting documentation for all expenditures of this Grant's funds pursuant 2 CFR 200.333, UGMS, and this Grant.

- Subrecipients must retain these records and any supporting documentation for a minimum of seven (7) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit.
- Records related to real property and equipment acquired with grant funds shall be retained for seven (7) years after final disposition.
- DHS or HSGD may direct a subrecipient to retain documents for longer periods of time or to transfer certain records to DHS or HSGD custody when DHS or HSGD determines that the records possess long term retention value.
- Subrecipients must give the DHS, the Comptroller General of the United States, the Texas State Auditor's Office, HSGD, or any of their duly authorized representatives,

access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by subrecipient pertaining to this Grant including records concerning the past use of grant funds. Such rights to access shall continue as long as the records are maintained.

- Subrecipients must include the substance of this Section in all subcontracts.
- Subrecipients must complete, deliver to the appropriate source, and retain copies of all after-action reports and certificates of completion for all training and exercises paid for by this Grant.

SECTION II: APPLICABLE TO ALL FEDERALLY FUNDED SUBRECIPIENTS

Federal Notice of Funding Opportunity - All allocations and use of funds under this Grant shall be in accordance with the applicable federal Notice of Funding Opportunity (NOFO) for the Federal Grant Title specified on this Grant.

Acknowledgement of Federal Funding from DHS – All subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing project programs funded in whole or in part with Federal funds from the U.S. Department of Homeland Security (DHS).

Emergency Management Plan - During the performance period of this Grant, subrecipients must maintain an Emergency Management Plan at the Intermediate Level of planning preparedness or as prescribed by the Texas Division of Emergency Management (TDEM). This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in subrecipient's plan, the subrecipient shall correct deficiencies within 60 calendar days of receiving notice of such deficiencies from TDEM.

Mutual Aid Agreement – During the performance period of this Grant the subrecipient must participate in a legally-adopted county and/or regional mutual aid agreement.

National Incident Management System (NIMS) – During the performance period of this Grant, the subrecipient must implement the NIMS in a manner consistent with the NIMS Implementation Objectives outlined by FEMA at <http://www.fema.gov/national-incident-management-system>.

Texas Regional Response Network (TRRN) – Subrecipients must be registered users of the TRRN (or other response asset inventory management system specified by HSGD) and shall enter any deployable equipment with a cost of \$5,000 or more, purchased with Homeland Security Grant funds into the TRRN (<https://www.trrn.state.tx.us>).

Environmental and Historical Review – Subrecipients must assess federally funded projects for potential impact to environmental resources and historic properties and submit any required screening form(s) as soon as possible within the deadlines established by HSGD. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact.

Subrecipients must include sufficient review time to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and HSGD will not authorize or release grant funds for non-compliant projects.

- As soon as possible upon receiving this Grant, the subrecipient must provide information to HSGD to assist with the legally-required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to HSGD for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipients must comply with all Federal, State, and local EHP requirements and obtain applicable permits and clearances. See FEMA Information Bulletin 329.
- Subrecipients shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings. Subrecipients must comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed. The subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered the subrecipient must immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

Management and Administration - If this Grant includes funds for management and administration (M&A), the subrecipient must comply with all applicable requirements and limitations with respect to M&A. The subrecipient's M&A shall not exceed 5% of their total project(s).

Personnel Cap - Up to fifty percent (50%) of all federal Homeland Security Grant Program (HSGP) awards may be used for personnel and personnel-related activities as directed by the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412). In general, use of HSGP funding to pay for staff and/or contractor regular time or overtime/backfill, among other items, are considered personnel-related costs. Subrecipients may request a waiver to the 50% personnel cap by submitting a waiver request through its respective regional council or urban area working group to HSGD at eGrants@gov.texas.gov. Requests for waivers shall be submitted on official subrecipient letterhead and be signed by the subrecipient's authorized official. Waivers shall contain the information required on page 9 of the FEMA Information Bulletin 379.

SECTION III: APPLICABLE TO FEDERALLY FUNDED OPSG SUBRECIPIENTS:

Subrecipients receiving Operation Stonegarden (OPSG) funds are prohibited from obligating or expending OPSG funds provided through this Grant until each unique, specific, or modified county level, tribal or equivalent Operations Order or Fragmentary Order has been reviewed and

approved by official notification by FEMA and Customs and Border Protection/Border Patrol (CBP/BP). Each Operations Order will be transferred via the secure portal (CBP/BP) BPETS system from each respective AOR Sector HQ to CBP/BP HQ in Washington, D.C., for review and pre-approval for Operational continuity, then forwarded to FEMA GPD/OPSG Program Office for final review/approval. Official notification of approval will be sent by FEMA via email to HSGD and CBP/BP HQ in Washington, D.C.

- Subrecipients shall develop and submit required operational documents through the border area's Integrated Planning Team.
- Subrecipients shall maintain an approved Concept of Operations, consisting of a campaign plan and proposed budget which will articulate the intent of how OPSG funds will be used throughout the grant performance period.
- Subrecipients intending to spend more than 50 percent of their award on overtime over the course of the performance period, must submit an overtime waiver request through the Integrated Planning Team.
- Subrecipients shall develop and submit Operations Orders for Tactical operational periods to achieve the strategic objectives of the campaign plan.
- Subrecipients shall only initiate tactical operations after the specific Operations Order(s) are approved through the Border Patrol Headquarters and by FEMA, and HSGD has issued an Award or Grant Adjustment Notice (GAN) to the jurisdiction.

SECTION IV: REMEDIES FOR NON-COMPLIANCE

If any subrecipient materially fails to comply with any term of this Grant, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, HSGD may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency or more severe enforcement action by HSGD;
- Disallow or deny use of funds for all or part of the cost of the activity or action not in compliance;
- Wholly or partially suspend or terminate this Grant;
- Withhold further awards; or
- Take other remedies that may be legally available.

Subrecipient costs resulting from obligations incurred during a suspension or after termination of this Grant are not allowable unless HSGD expressly authorizes them in the notice of suspension or termination or subsequently.