



Office of the Governor

Public Safety Office

Homeland Security Grants Division
Fund Specific Grant Conditions

Homeland Security Grant Program

FFY 2024 Award

September 2024

About This Document

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

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

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

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

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

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Article I. General Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337.

1. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS 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 or personnel.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or federal awarding agency program guidance.

Article II. Acknowledgement of Federal Funding from DHS

Recipients and subrecipients must acknowledge their use of federal 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 funds.

Article III. Activities Conducted Abroad

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

Article IV. Civil Rights and Nondiscrimination

Section 4.01 Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients and subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Section 4.02 Americans with Disabilities Act of 1990

Recipients and subrecipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. Sections 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.

Section 4.03 Rehabilitation Act of 1973

Recipients and subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. Section 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.

Section 4.04 *Age Discrimination Act of 1975*

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

Section 4.05 *Civil Rights Act of 1964 – Title VI*

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

Section 4.06 *Civil Rights Act of 1968*

Recipients and subrecipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. Section 3601 et seq.), as implemented by the 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. Section 100, Subpart D)

Section 4.07 *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. Recipients and subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Section 4.08 *Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX*

Recipients and 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. Section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17.

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 19.

Article V. Best Practices for Collection and Use of Personally Identifiable Information

Recipients and 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. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Templates as useful resources.

Article VI. Copyrights

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

Article VII. Debarment and Suspension

Recipients and subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article VIII. Drug-Free Workplace Regulations

Recipients and 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. sections 8101-8106).

Article IX. Duplication of Benefit

Recipients and 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, recipients 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.

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

Recipient (and subrecipient) State, Tribal, local and territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient (and subrecipient) 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.

Article XI. Energy Policy and Conservation Act

Recipients and 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. Section 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.

Article XII. False Claims Act and Program Fraud Civil Remedies

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

Article XIII. Federal Debt

Recipients and subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XIV. Federal Leadership on Reducing Text Messaging While Driving

Recipients and 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.

Article XV. Fly America Act of 1974

Recipients and 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>) 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 XVI. Hotel and Motel Fire Safety Act of 1990

Recipients and subrecipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal 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. section 2225a.

Article XVII. John S. McCain National Defense Authorization Act of Fiscal 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. sections 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.

Article XVIII. Lobbying Prohibition

Recipients and subrecipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provides that none of the funds provided under an federal financial assistance award may be expended by the recipient, or subrecipient, 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).

Article XIX. National Environmental Policy Act

Recipients and 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. section 4321 et seq.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients (and subrecipients) to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XX. Non-Supplanting Requirement

Recipients and 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.

Article XXI. Notice of Funding Opportunity

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

terms of the Award, the condition in the federal NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the federal NOFO shall remain in effect.

Article XXII. Patents and Intellectual Property Rights

Recipients and subrecipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. Section 401.14.

Article XXIII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors (or subrecipients) 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, 42 U.S.C. section 6962). 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 XXIV. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients and subrecipients must comply with the Build America, Buy America Act provisions of the Infrastructure Investment and Jobs Act and E.O. 14005.

Recipients and subrecipients of and 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.

Waivers

When necessary, recipients may apply 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.

When the federal agency has made a determination 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.

Definitions

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.

Article XXV. SAFECOM

Recipients and subrecipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The SAFECOM Guidance is updated annually and can be found at Funding and Sustainment | CISA.

Article XXVI. Terrorist Financing

Recipients and subrecipients must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article XXVII. Trafficking Victims Protection Act of 2000 (TVPA)

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

Article XXVIII. USA Patriot Act of 2001

Recipients and 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. Sections 175-175c.

Article XXIX. Use of DHS Seal, Logo and Flags

Recipients and subrecipients must obtain permission from their DHS FAO 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.

Article XXX. Whistleblower Protections

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

Article XXXI. Environmental Planning and Historic Preservation (EHP) Review

DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (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 and subrecipients 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. General guidance for FEMA's EHP process is available on the DHS/FEMA Website. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the PSO along with all other pertinent project information. (NOTE: The PSO will submit the form and pertinent information to the Grant Programs Directorate (GPD)). 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 orders, regulations, and policies.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered the applicant will immediately cease work in that area and notify the PSO and DHS/FEMA.

Article XXXII. Applicability of DHS Standard Terms and Conditions to Tribes

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

Article XXXIII. Disposition of Equipment

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state subrecipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the state must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state subrecipients must follow the disposition requirements in accordance with state laws and procedures. Subrecipients should contact PSO for instructions.

Article XXXIV. Homeland Security Grant Program Performance Goal

In addition to the Biannual Strategy Implementation Report (BSIR) submission requirements outlined in the Preparedness Grants Manual, recipients and subrecipients must demonstrate how the grant-funded project addressed the core capability gap associated with this project and identified in the Threat and Hazard Identification and Risk Analysis (THIRA) or Stakeholder Preparedness Review (SPR) or sustains existing capabilities as applicable. The capability gap reduction must be addressed in the Project Description for each project.

Article XXXV. Operation Stonegarden Performance Goal

In addition to the Biannual Strategy Implementation Report (BSIR) submission requirements outlined in the Preparedness Grants Manual, recipients and subrecipients must demonstrate how the grant-funded project addressed the core capability gap associated with this project and identified in the Threat and Hazard Identification and Risk Analysis (THIRA) or Stakeholder Preparedness Review (SPR) or sustains existing capabilities as applicable. The capability gap reduction or capability sustainment must be addressed in the Project Description for each project.

Article XXXVI. Operation Stonegarden

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

Article XXXVII. 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 <https://www.fema.gov/emergency-managers/nims/implementation-training>. As subrecipients of

Federal preparedness (non-disaster) grant awards, jurisdictions and organizations must achieve or be actively working to achieve all of the NIMS Implementation Objectives.