



Terms and Conditions 2019 Emergency Management Performance Grant (EMPG)

Purpose

The FY 2019 priority for this program is to advance "Whole Community" security and emergency management. Grant funds will be used to support local comprehensive emergency management programs to encourage improvement of mitigation, preparedness, response, and recovery capabilities for all hazards. Funding may be used to support activities that contribute to the capability to manage consequences from acts of terrorism. Funds provided may also be used to accomplish initiatives described in the Federal Program Guidelines, including local implementation of the National Incident Management System (NIMS), incorporation of appropriate references to the National Response Framework (NRF) into local plans, homeland security assessment and strategy integration, and assessment of local emergency management programs

Grant Conditions

Identify the source of funding under which this award is funded and reference the government code. The federal grant terms and conditions are located at: <http://www.fema.gov/media-library/assets/documents/92248>

Grant Acceptance

Notice of Subrecipient Grant Award remains an offer until the signed copy of the Acceptance of Subrecipient Grant Award is received by the Texas Division of Emergency Management (TDEM) in accordance with the instructions provided in the transmittal letter.

Task Requirements

The approved FY 2019 Statement of Work and Progress Report template outlines eight tasks that the grantee must perform during the grant period. The following additional tasks are also required of Subrecipients:

- a. Implement (NIMS) at the local level.
- b. Incorporate pertinent information concerning National Response Framework into the local or inter-jurisdictional emergency management plan and its annexes.
- c. Subrecipients must have a tracking system of record to organize and coordinate resources in response to incidents.

- d. During the performance period of this grant, Subrecipient must maintain an emergency management plan at the Advanced Level of planning preparedness or higher, as prescribed by the TDEM. This may be accomplished by jurisdictions maintaining their own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in the Sub-recipient's plan, Sub-recipient's will correct deficiencies within sixty (60) days of receiving notice of such deficiencies from TDEM.
- e. Sub-recipient's must maintain an updated inventory of equipment purchased through this grant program in accordance 2 C.F.R. 200 Requirements, Reports, Records, Retention, and Enforcement, Equipment and the Department of Homeland Security (DHS).
- f. The Subrecipient agrees that any equipment purchased with funds through this grant program shall be prominently marked as follows: "*Purchased with funds provided by the U.S. Department of Homeland Security.*" Exceptions to this requirement are limited to items where placing of the marking is not possible due to the nature of the equipment.

Grant Funding

The amount of this grant may be less than the amount requested in your Application for Federal Assistance due to limits on federal funding for the EMPG program. However, EMPG grant recipients should report eligible expenses in quarterly financial reports. Any excess match reported, will be used for TDEM match purposes and becomes 100% federalized, therefore cannot be used for any other grant match purposes within your jurisdiction.

Financial and Administrative Requirements

In Accordance with 2 C.F.R. Part 200 Subpart F—Audit Requirements, Subrecipient agrees to comply with the applicable financial and administrative requirements set forth in the Office of Justice Programs (OJP) Financial Guide.

- a. All emergency management program costs for which the Subrecipient seeks reimbursement must be eligible in accordance with 2 CFR Part 200 as it applies to awards of Federal financial assistance to all "non-federal entities"
- b. Subrecipient will comply with the organizational audit requirements of super circular 2A CFR 200 Audits of States, Local Governments, and Non-Profit Organizations.
- c. When implementing Federal Emergency Management Agency (FEMA) National Preparedness Directorate funded activities; the Subrecipient must comply with all federal civil rights laws, to include Title VI of the Civil Rights Act, as amended. The Subrecipient is required to take reasonable steps to ensure persons of limited English proficiency have meaningful access to language assistance services regarding the development of proposals and budgets and conducting FEMA funded activities.
- d. Subrecipient will assist the awarding agency (if necessary) in assuring compliance with the National Historic Preservation Act of 1966 Section 106 (16 U.S.C. § 470), Ex. Order

11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321). (Federal Assurance).

- e. Subrecipient agrees to make no request for reimbursement for goods or services procured by the Subrecipient either prior to the start of the period of performance stated in this award document or after the end of the period of performance.

Notwithstanding any other provisions of this document, the parties understand and agree that the obligations of TDEM under this Agreement are contingent upon the availability of adequate funds to meet TDEM's liabilities. TDEM shall not be liable to the Subrecipient for costs under this agreement that exceed the amount specified in the Notice of Subrecipient Grant Award.

- f. Single Audit Act Requirements: For sub-recipients expending \$750,000 or more in federal annually, the Applicant will cause to be performed the required financials and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

Reporting Requirements

Subrecipient agrees to comply with all reporting requirements and shall provide such information as required by TDEM. Reporting requirements can be found in the *2019 Local Emergency Management Performance Grant (EMPG) Guide*. Sub-recipients may be required to submit additional information and data requested by TDEM and after the end of the period of performance in order to close out the grant. A copy of the *2019 Local Emergency Management Performance Grant (EMPG) Guide* can be downloaded from the TDEM website at: http://tdem.wpengine.com/?page_id=232. Sub recipient must prepare and submit Semi-Annual Progress Reports to TDEM for the duration of the grant performance period or until all grant activities are completed and the grant is formally closed. The first performance-reporting period is October 1 to March 31 (progress report due April 15) and the second reporting period is April 1 to September 30 (progress report due October 15). Subrecipient may also be required to submit additional information and data as requested by TDEM.

Review of Work and Expenditures

TDEM may review the work of the Subrecipient with respect to approved program tasks and expenditures for which reimbursement are requested to ensure the federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of this contract or grant agreement and that performance goals are achieved. These reviews may include, without limitation: comparing actual Subrecipient activities to those approved in the sub-award application and subsequent modifications if any; ensuring that grant funds have been expended in accordance with applicable guidelines; confirming compliance with grant assurances, and verifying information provided on performance reports and payment requests. **Local EMPG grant funds cannot be matched with any other federal funds.**

Lobbying

As required by Section 1352, Title 31 of the U.S. Code, for persons entering into a contract, grant, loan or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting 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 the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting 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 this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Subrecipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

Debarment, Suspension, and other Responsibility Matters

As required by Executive Order 12549, and 12689 and 2 C.F.R 200.213 and codified in the 2 C.F. R. Part 180, Debarment and Suspension, the applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The applicant certifies that it and its principles, sub grantees, recipients or sub recipients:

The Subrecipient certifies that it and its principals and vendors:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency; Subrecipients can access debarment information by going to www.epls.gov.
- b) Have not, within a three-year period preceding this application, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

- d) Have not, within a three-year period preceding this application, had one or more public transactions (Federal, State, or local) terminated for cause or default.
- e) Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application (Federal Certification).

Monitoring

- a. Subrecipient will provide TDEM, State Auditor, DHS personnel or their authorized representative, access to and the right to examine all paper or electronic records related to financial assistance.
- b. Subrecipient agrees to monitor their program to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that the performance goals are achieved.

TDEM may perform periodic reviews or sampling of Subrecipient performance of eligible activities and approved projects. These reviews/sampling may include, without limitation: performance of an on-site audit and compliance monitoring, including inspection of all grant-related records and items, comparing actual.

Subrecipient activities to those approved in the sub-award application and subsequent modifications if any, ensuring that advances have been disbursed in accordance with applicable guidelines, confirming compliance with grant assurances, verifying information provided in performance reports and reviewing payment requests, needs and threat assessments and strategies.

- c. Subrecipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA National Preparedness Directorate.
- d. The Subrecipient official certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.
- e. All financial expenditures and excess match will be verified and validated by TDEM and will become federalized funds, and utilized by the Texas Division of Emergency Management as match. Once these funds are utilized by the TDEM EMPG grant program, your agency can no longer utilize them within for any other federal grant match for the term of the grant performance year.

Reimbursement for Expenses

Reimbursement for expenses incurred during the second and fourth quarter of Fiscal Year 2019 will not be disbursed until TDEM receives the first and second semi-annual EMPG Progress Reports, which are due on April 15, and October 15, respectively.

1. Choice of Law: This agreement shall be construed and governed by Texas law.
2. Changes to the Law: TDEM is a state agency whose authority and appropriations are subject to the actions of the Texas Legislature and the United States Congress. If TDEM and/or the subject matter of this contract become subject to a legislative or regulatory change, revocation of statutory or regulatory authority, or lack of funds that would render the services and/or goods and/or payment to be provided under this agreement impossible, unnecessary, void, or substantially amended, TDEM may terminate this agreement without penalty to, or any liability whatsoever on the part of, TDEM, the State of Texas, or the United States. This contract does not grant vendor a franchise or any other vested property right.
3. Written Modification: No modification or amendment to this Agreement shall become valid unless in writing and signed by both parties.
4. To the extent it applies, Subrecipient shall comply with Texas Government Code, Chapter 783, 1 Texas Administrative Code (TAC) §§ 5.141 *et seq.*, and the Uniform Grant Management Standards, State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart B, §_14.
5. To the extent it applies, Subrecipient shall comply with the General Appropriations Act, 80th Legislature, Article IX, Part 17.
6. TDEM may suspend or terminate sub-recipient funding, in whole or in part, or other measures may be imposed for any of the following reasons: failing to comply with the requirements or statutory objectives of federal law, failing to make satisfactory progress toward the goals or objectives set forth in the sub-award application, failing to follow grant agreement requirements or special conditions, failing to submit required reports, or filing a false certification or other report or documentation. Satisfactory progress is defined as accomplishing the following during the performance period of the grant: requesting federal funds for purchases, training, etc. and deciding what purchases will be made, ordering the equipment, ensuring the equipment is shipped and received, and training is accomplished with the equipment (or readied for deployment). All of the aforementioned tasks must be accomplished in a timely manner. **Special Conditions may be imposed on Subrecipient's use of grant funds until problems identified during grant monitoring visits conducted by TDEM audit and compliance personnel are resolved.**