

Wisconsin Emergency Management (WEM)

## Notice of Funding Opportunity (NOFO)

Nonprofit Security Grant Program (NSGP)

FFY 2023



Applications must be submitted in  
Egrants on or before **Sunday, November 12, 2023.**

# NSGP FFY 2023 NOFO

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# NSGP FFY 2023 NOFO

## A. PROGRAM DESCRIPTION

The Nonprofit Security Grant Program (NSGP) provided through Wisconsin Emergency Management (WEM) provides financial assistance for target hardening and other physical security enhancements and activities to nonprofit organizations that are at high risk of terrorist attack. The intent is to integrate nonprofit preparedness activities with broader state and local preparedness efforts. It is also designed to promote coordination and collaboration in emergency preparedness activities among public and private community representatives, as well as state and local government agencies. The FY 2023 Nonprofit Security Grant Program (NSGP) plays an important role in the implementation of the National Preparedness System (NPS) by supporting the development and sustainment of core capabilities. Core capabilities are essential for the execution of each of the five mission areas outlined in the National Preparedness Goal.

The NSGP grant for Federal Fiscal Year (FFY) 2023 is one of three grant programs that support the Department of Homeland Security (DHS)/Federal Emergency Management Agency's (FEMA) focus on enhancing the ability of state, local, tribal, and territorial governments, as well as nonprofit organizations, to prevent, prepare for, protect against, and respond to terrorist or other extremist attacks. These grant programs are part of a comprehensive set of measures authorized by Congress and implemented by DHS to help strengthen the nation's communities against potential terrorist or other extremist attacks.

## B. AWARD INFORMATION

1. **Funding source:** Department of Homeland Security Appropriations Act, 2023 (Pub. L. No. 117-328); Sections 2003 and 2004 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, as amended) (6 U.S.C. §§ 604 and 605). The Federal Award Identification Number for the grant awarded to WEM from DHS is EMW-2023-UA-00023.
2. **Authorized Listing Number** (for Single Audit requirement): 97.008
3. **Total amount of funds eligible:** \$3,738,370.00
4. **Anticipated number of awards:** 28
5. **Anticipated grant award amount:** \$28,781.00-\$150,000.00
6. **Anticipated grant performance/budget period:** 11/27/2023-5/31/2026
7. **Type of grant award:** This is a new, one-time initiative competitive grant opportunity. Applications for renewal or supplementation of existing projects are not eligible.
8. **Expectations:** If WEM approves an application for award, the authorized representative of your agency will be required to sign an agreement with WEM that sets forth your agency's obligations to adhere to this NOFO and all requirements set forth in [section F](#) of this NOFO. **Please review the entirety of this NOFO and each document in [section H](#) carefully prior to applying for this grant to ensure that your agency will be able to fulfill all obligations set forth in them should its application be approved.**

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## C. ELIGIBILITY

### 1. Eligible applicants

All applicants that submit an application for this funding opportunity are certifying that they are willing and able to comply with all requirements as stated in this NOFO including all rules and regulations identified in [section F](#) of this document.

Eligible applicants are nonprofit organizations that are described under section 501(c)(3) of the Internal Revenue Code of 1986 and are exempt from tax under section 501(a) of such Code. For NSGP, nonprofit organizations may be located anywhere within a state or territory outside of a UASI-designated high-risk urban area.

The nonprofits awarded by DHS/FEMA are the only eligible applicants for FFY 2023. A List of the awarded nonprofit can be found <https://wem.wi.gov/nsgp/>.

#### Additional eligibility requirements for federal funding

All applicants for this grant opportunity must have a valid Unique Entity Identifier (UEI) number in System for Award Management (SAM) before applying. WEM's website has a helpful guide for obtaining a UEI number located at <https://wem.wi.gov/available-grants/>. **WEM cannot award a grant until the applicant has complied with all SAM requirements.** If your agency is exempt under [2 CFR 25.110\(b\)](#) or [\(c\)](#), or has an exception approved by the Federal awarding agency under [2 CFR 25.110\(d\)](#), please contact the individual identified in [section G](#) of this document as soon as possible.

### 2. Cost share or local match

Cost sharing is not a requirement for the NSGP. Any costs over the eligible award amount will be the responsibility of the applicant.

### 3. Eligible costs and funding restrictions

All expenses related to this grant must be allowable, reasonable, allocable, and incurred within the grant's performance and budget period. Applicants that accept funding are responsible for all sustainment costs. Additionally, this funding supports personnel for a limited term project to be completed during the grant period and is not intended to support long-term staffing needs. Sustainment of long-term staffing needs beyond the grant period is the responsibility of the grant recipient. Additional funding restrictions are included in [section E.4.](#) of this document.

#### **a. Allowable costs**

The following direct cost categories and related costs are allowable under this funding opportunity:

##### Personnel

Personnel costs represent wages and salaries for an **employee of the applicant agency**.

The application must include the following:

- Each employee for which costs may be covered by the grant,
- A copy of the employee's position description, that supports the allowable activity and time allocated, uploaded as an attachment to the application.
- All costs submitted for reimbursement must be supported by a Timesheet and payroll records reflecting that time was allocated for eligible activity.

Eligible costs under this category are limited to management and administration (M&A) costs pre-approved by DHS/FEMA. Up to five percent (5%) of the nonprofit's sub-award may go to M&A costs. M&A costs are not operational costs, they are the necessary costs incurred in direct support of the grant or as a result of the grant and should be allocated across the entire lifecycle of the grant. Examples include preparing and submitting required programmatic and financial reports, establishing and/or maintaining equipment inventory, documenting operational and equipment expenditures for financial accounting purposes, and responding to official informational requests from state and federal oversight authorities.

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## Employee Benefits

Fringe or Employee Benefit costs represent the **applicant agency's cost** for benefits and fringe costs associated with an employee's wages. Eligible costs under this category are limited to M&A costs pre-approved by DHS/FEMA and in direct relation to the wages entered in Personnel. All requirements for eligibility outlined under the Personnel cost category apply to costs under this category.

## Equipment

Costs under this category include equipment and/or supplies, regardless of the cost, so that applicants can select from the authorized equipment list (AEL) for allowable items.

- All equipment costs that are greater than \$5,000.00 should follow local procurement policies and procedures that adhere to the required procurement standards as stated in the Terms and Conditions of this grant.
- All equipment costs must follow asset management and an Inventory Report will be required prior to closeout.
- All approved eligible costs must be on the Authorized Equipment List (AEL), provided as an attachment at <https://wem.wi.gov/nsqp/>.

Eligible costs under this category are limited to facility hardening and physical security enhancements. Funding can be used for the acquisition and installation of security equipment on real property (including buildings and improvements) owned or leased by the nonprofit organization, specifically in prevention of and/or protection against the risk of a terrorist or other extremist attack.

## Consultant/Contractual

Costs under this category include consultant or contractual services through a third party. All costs must have a signed contractual agreement, and if appropriate, must adhere to proper procurement standards. Eligible costs under this category are limited to training, exercise and/or security.

### **b. Conditionally allowable costs**

Projects or requests that were not approved by DHS/FEMA may be conditionally approved with proper justification and dependent on availability of funding. All costs must be reviewed and approved by DHS/FEMA which reserves the right to deny any request. The following costs may be allowable:

- Supplies
- Construction and renovation projects without prior written approval from FEMA are not allowable. In some cases, the installation of equipment may constitute construction and/or renovation. If you have any questions regarding whether an equipment installation project could be considered construction or renovation, please contact your grant manager. All sub-recipients of NSGP funds must request and receive prior approval from FEMA before any NSGP funds are used for any construction or renovation.

### **c. Unallowable costs**

The following costs are unallowable under this funding opportunity:

- Organization costs.
- Employee travel costs
- Indirect costs, such as those that cannot be directly applied to a cost category or tied to an activity.

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## D. APPLICATION & SUBMISSION INFORMATION

### 1. Pre-application

In the pre-application, you will provide WEM with detailed information about your project that will be used to make a funding decision.

The pre-application for this funding opportunity refers to the request and submission of Investment Justifications that were reviewed, rated and submitted to DHS/FEMA for pre-approval and allocation distributions. For more information on that process, please visit WEM's NSGP website at <https://wem.wi.gov/nsgp/> for more information.

### 2. Full application

All successful pre-applications that were approved by DHS/FEMA are eligible to submit a full application up to the amount identified by DHS/FEMA. Applications must be submitted through the Egrants online grants management system accessible at <https://wem.egrants.us>. Through Egrants, you will provide WEM with detailed information about your project that will be used to make a **final award determination**. Applications in Egrants must align with what was approved in the pre-application phase in order to be awarded.

#### a. Access application

To access the Egrants system, you will need a user identification and a password. If you do not currently have access to the Egrants system please see [section D\(5\)](#) Other submission requirements of this document for Egrants registration information and troubleshooting contact information. For special accommodations, WEM's Reasonable Accommodation Policy is available on WEM's website <https://wem.wi.gov/admin-tools/>.

#### b. Application components

Information provided in this application may be cited in WEM reports or press releases and will likely be used in reports to federal funding agencies or other stakeholders. The following Egrants sections below must be completed in their entirety as described in this document to be approved for award.

#### (1) Main Summary

##### (a) Agency

##### (b) Unique Entity Identification (UEI)

*All applicants for this grant opportunity must provide a valid UEI and be registered in System for Award Management (SAM.gov) before applying. WEM's website has a helpful guide for SAM registration. [UEI External Fact Sheet \(wi.gov\)](#).*

- **WEM cannot award a grant until the applicant has complied with all SAM requirements.** *If your agency is exempt under [2 CFR 25.110\(b\)](#) or [\(c\)](#), or has an exception approved by the Federal awarding agency under [2 CFR 25.110\(d\)](#), please contact the individual identified in [section G](#) of this document as soon as possible.*

##### (c) Point of contacts

- **Project Director** - *For this grant, select the individual who is responsible for execution, oversight, and administration of this grant.*
- **Financial Officer** - *For this grant, select the individual who is responsible and accountable for the financial management of the awarded agency with the authority to certify expenditures.*
- **Signing official** – *For this grant, select the individual that has the authority to sign the legal agreement and obligate your agency into a legal grant agreement.*
- **Alternate contact** – *This individual is to provide a back-up contact in the event the project director is not available. This individual cannot sign or certify on behalf of the Financial Officer or Project Director.*

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(d) Performance Period

The performance period you include should **not exceed** the eligible period in [section B.6](#) of this document, without proper justification to support the request for extension. Please contact the person identified in [section G](#) of this document before proceeding.

(e) Brief Description

In the Brief Project Description text box, please effectively describe your project in 150 words or less. Plain language that clearly describes the intent of the project is most effective. A suggested format may be:

*"Funds will be used by the (your nonprofit name and others involved in the project) to (describe what funds will be used for and who will be involved). The (what - equipment, training, project, etc.) will (describe the specific goals you hope to achieve – how will the project or equipment improve safety at your nonprofit's site?)."*

(2) **Performance Measures**

Awarded sub-applicants will be required to detail the number of equipment items they plan to install (ex. 10 cameras), the number trainings, and number of staff trained. These performance measures will be used to monitor the progress in meeting the goals of the sub-grant as they happen in each reporting period after award.

(3) **Budget Detail**

Only eligible costs under the appropriate cost category as described in [section C.3 for Eligible costs](#) should be included in the application. All costs must have the following in Egrants:

- (a) A proper description of the item
- (b) A proper justification that describes how the items will be used during the grant period to meet the eligible activity and outcomes.
- (c) Detailed computations that adequately support the amount requested **must include an item description, unit cost, and quantity/frequency**. Detailed computations should be clear and reflect accurate calculations that support the total amount requested (e.g., "Contracted Training \$30/student/day x 25 students x 4 days; total \$3,000"). **Lump sums are not acceptable unless stated otherwise below.**

(4) **Required Attachments**

As part of the Egrants application, awarded nonprofits will be required to submit the following documents:

- W-9 Form
- \*Environmental & Historic Preservation (EHP) Form & relevant pictures.
- \*Position Description for personnel costs and activity, if applicable.

*\*If any of the required forms are not submitted at time of application, funding will be placed on hold until they are submitted and approved. The grant award documents will still be issued to the sub-recipient nonprofit to sign but no costs will be allowable until the documents are received and approved by WEM.*

(5) **Project narrative**

Please describe the target hardening activity (i.e., physical security enhancement) that addresses the identified threat or vulnerability.

(6) **Evidence of need**

Describe the symbolic value of the site as a highly recognized national or historic institution.

(7) **Core capabilities**

Select one core capability and as many secondary core capabilities as desired.

(8) **Other funding sources**

If the total project costs exceed your grant award amount identified in the NOFO, please explain what costs your agency is supporting. Additionally, if this is part of a multiyear



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project, please describe which phase of the project is being funded with this grant, and how the other phases are being funded.

## 3. Submission dates & times

Applications must be submitted in Egrants on or before **Sunday, November 12, 2023**.

Failure to complete the Egrants application by the posted deadline and/or respond to requests from WEM may lead to rescission of grant funding. Any delays in submitting a returned application and therefore the ability for WEM to approve the application, will result in a delayed grant start date and in turn, delay the ability to incur expenses on the grant.

## 4. Funding restrictions

The following costs are prohibited, and any violation may result in a range of penalties, including suspension of current and future funds under this program, suspension or debarment from federal grants, repayment of monies provided under a grant, and civil and/or criminal penalties.

Duplication of benefits are prohibited and include any cost allocable to a particular financial assistance award provided for may not be charged to other financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Supplanting is prohibited. Supplanting is the substitution of existing state or local government funding with federal grants.

Pre-award costs are unallowable. Pre-award costs are any costs that have been incurred prior to notification from WEM of either a fully executed award document or Grant Adjustment Notification (GAN). *A cost is incurred when an action or activity will result in an expense or obligation. This may be, but is not limited to, ordering items, scheduling trainings, reserving hotel rooms, signing a contract, finalizing a purchase order, hours worked, etc.*

**Additional funding restrictions are identified in [section C.3.](#) of this document.**

## 5. Other submission requirements

Only applications successfully submitted in the online grant management system Egrants will be considered and reviewed. To access Egrants, you must be a registered user and have a unique password. Sharing usernames and passwords is strictly prohibited and may result in disqualification of the user and/or applicant agency in this and future funding opportunities.

### a. Egrants registration:

If you have never used Egrants before, you will need to register for access to the system. To register online, go to <https://register.wisconsin.gov/accountmanagement/default.aspx> and complete the 'self-registration' process. Authorization to access Egrants can take several days depending on registration activity.

*Please note: If you register outside the hours of Monday-Friday 7:30am-4pm, access may not be approved until the next business day. Once your Egrants access has been approved, you may begin your online grant application.*

### b. Egrants technical assistance

- (1) The Egrants User Guide is available on the Egrants log-in screen <https://wem.egrants.us/egmis/>
- (2) The Egrants Help Desk is available on business days from 7:30AM to 4:00PM via phone at 608-242-3231 or via email at [WEMEgrants@egrants.us](mailto:WEMEgrants@egrants.us)
- (3) Once signed-in to the Egrants system, additional guidance is available by clicking on the "Help" icon in the upper right-hand corner.



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## E. APPLICATION REVIEW AND NOTIFICATION OF AWARD

### 1. Criteria

WEM will review the Budget, Performance Measures, Project Narrative, Evidence of Need, Core Capabilities and Other Funding sections for detail completeness. Review of the content of the Egrants sub-application will be compared to the Investment Justification (IJ) that was submitted to FEMA during the pre-application. Any information in the Egrants application that does not match what is in the approved IJ will be sent back to the sub-recipient for corrections. Any budgetary or project scope components of the Egrants application that are vague or not quantifiable/qualifiable will be sent back for corrections.

Cost sharing will not be considered in this sub-application.

### 2. Review and selection process

All applications must be submitted on or before the deadline and will be screened for completeness, eligibility, and compliance as detailed in this document and corresponding attachments.

### 3. Anticipated announcement and dates

Applicants that successfully complete their Egrants application and have been approved for award will be notified within two weeks from the approval in Egrants by the receipt of award documents.

## F. AWARD ADMINISTRATION INFORMATION

### 1. Required information upon approval (intent) but prior to award

Upon approval of an application, WEM will provide Grant Award Notices. No additional information is needed unless requested by the grant manager.

### 2. Grant Award Notices

If WEM grants an application for award, an authorized representative of your agency will be required to sign an agreement with WEM that sets forth your agency's obligations with respect to the funds (the Grant Agreement). The Grant Agreement will incorporate this NOFO and all Terms & Conditions as set forth by [section F.3.](#) of this NOFO. The terms are non-negotiable. **Please review the entirety of each document carefully prior to applying for the grant** to ensure that your agency will be able to fulfill all obligations set forth in them should its application be approved. If your agency can fulfill all obligations, it may wish to start whatever process is necessary to get the authority to sign the Grant Agreement as soon as possible so that, if WEM ultimately approves your agency's application, the Grant Agreement can be signed and the funds made available expeditiously.

The award document must be returned to WEM prior to the grant performance period start date as indicated in Egrants. Grant awards without signatures will not be considered active until the authorized officials of the sub-recipient nonprofit have signed and returned the award documents to WEM.

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## 3. Administrative & Policy Requirements

The following requirements are non-negotiable as set forth in your agency's obligations in respect to the grant funds awarded. **Please review the entirety of each document carefully prior to applying for the grant** to ensure that your agency will be able to fulfill all obligations set forth in them should its application be approved. If your agency will not be able to do so, you are encouraged to forego applying for these grant funds.

### a. Standard Terms & Conditions

All grants awarded through the Department of Military Affairs (DMA) and Wisconsin Emergency Management (WEM) must comply with the DMA/WEM Standard Terms & Conditions which are provided in this document under [Appendix II: DMA/WEM Standard Terms & Conditions](#).

### b. Special Conditions

Special Conditions that are required upon award are provided in this document under [Appendix I: Special Conditions & Additional Monitoring](#).

### c. Additional requirements for Federally funded grants

The following federal rules, regulations and guidance are applicable to funds awarded under this opportunity.

- (1) Unique Entity Identifier (UEI) and System for Award Management (SAM)  
Refer to Application Components [section D\(2\)](#) for more information.
- (2) Department of Homeland Security Standard Terms & Conditions as provided in this document under [Appendix III: DHS FFY2023 Standard Terms & Conditions](#).
- (3) The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2023 Nonprofit Security Grant Program :  
<https://www.fema.gov/grants/preparedness/nonprofit-security/fy-23-nofo>.
- (4) Federal Emergency Management Agency (FEMA) Preparedness Grants Manual:  
[https://www.fema.gov/sites/default/files/documents/fema\\_gpd-fy-23-preparedness-grants-manual.pdf](https://www.fema.gov/sites/default/files/documents/fema_gpd-fy-23-preparedness-grants-manual.pdf)

## 4. Monitoring & reporting

If awarded a grant, your agency will be responsible for completing the following reports and submitting the following items in Egrants to receive reimbursement:

### a. Progress Reports

Must be submitted quarterly by the 12th of the following month. A Final Program Report for closeout is due 30 days following the end of the grant.

### b. Inventory Reports

An Inventory Report must be submitted in Egrants no more than 30 days following the grant period end date.

### c. Special Conditions

The special conditions located in [Appendix I: Special Conditions & additional monitoring](#) require a document to be submitted to WEM via the Egrants Project Document Attachments within 30 days of completion or prior to seeking reimbursement, whichever is sooner.

### d. Fiscal Reports

Fiscal reports must be submitted quarterly by the 12th of the following month. Please see the [Reimbursement Requests section](#) for more information.

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## 5. Modifications

Any request to modify an approved award must be submitted in Egrants for pre-approval prior to the activity occurring or expenses incurred. All modification requests will be reviewed by the Program Manager for approval. All final grant modification decisions will be made by the WEM Administrator. Modifications are not considered final until WEM provides a signed Grant Adjustment Notification (GAN); **any related expenses incurred prior to receipt of a signed modification approval are not eligible for reimbursement.** At a minimum, modification requests must be submitted to WEM via Egrants for the following changes:

- a. **Primary Contact(s) of the grant.** This includes change of a signing official, fiscal officer, or project director.
- b. **Requesting an extension of the performance/budget period.** This includes changes to the grant period must be submitted prior to the approved end date of the grant. Please note that this does apply when only requesting a delay or extension to reporting due dates.
- c. **Scope of work.** This includes changes to the scope, objectives, performance measures and intent of the approved award.
- d. **Budget adjustment.** This includes changes to the budget that do not fall within a change to the scope or objective may include a change to the total award or moving funds between cost categories in which the net change is greater than ten percent (10%) of the total award.

## 6. Reimbursement Requests

### a. Requirements

Payments will be made on a reimbursement basis once all requirements, activities and expenses have been completed by the grantee and verified by WEM.

Guidance regarding requirements and process is accessible through the Egrants Job Aid for Fiscal Reports: <https://wem.wi.gov/wp-content/library/grants/egrants-job-aid-fiscal-report-and-reimbursement-request.pdf>.

### b. Submission

Requests for reimbursement are made by submitting a Fiscal Report in Egrants. The following documentation is required to be attached to and submitted with the Fiscal Reports in Egrants:

- (a) A **Reimbursement Request Form** generated by the Egrants Fiscal Report and signed by the recipient's Project Director and Financial Officer
- (b) **Invoices/receipts** that are detailed and itemized to clearly show what was ordered, the quantity, unit cost and total amount. Please review the job aid for additional information.
- (c) **Proof of payment** must be submitted to prove that the awarded entity has paid for the expense prior to seeking reimbursement. The proof of payment must adequately show that the vendor has been paid in full.
- (d) Additional support documentation necessary to validate and/or justify the expense.

### c. Review process

WEM requires at least two weeks to complete a full review of the submitted reimbursement documentation. The NSGP grant manager will return any request that does not comply with the grant's requirements. The grant manager will contact sub-recipients with questions, corrections, or concerns about a specific reimbursement. Reimbursement payments, once approved by WEM, may take up to an additional month to be disbursed. Reimbursement payments require registration within the State of Wisconsin's financial management system (STAR). The payment method will depend on how your entity is set up in STAR and may be sent as an Automated Clearing House (ACH) or via a physical check. It will be the responsibility of the sub-recipient to maintain and update their account and payment information in STAR.

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## G. CONTACT INFORMATION

Primary contact:

Garrison Ledbury, NSGP Grant Manager  
[garrison.ledbury@widma.gov](mailto:garrison.ledbury@widma.gov)  
608-733-1888

## H. OTHER INFORMATION

### 1. Resources

- Wisconsin Emergency Management (WEM) website: <https://wem.wi.gov/>
- WEM Grant Administration tools: <https://wem.wi.gov/admin-tools/>
- WEM Egrants Job Aid for Fiscal Reports: <https://wem.wi.gov/wp-content/library/grants/egrants-job-aid-fiscal-report-and-reimbursement-request.pdf>
- **Egrants Grants Management System**
  - Egrants website: <https://wem.egrants.us/>
  - User Guide: <https://wem.egrants.us/egmis/documents/EgrantsExternalUserGuideUpdated9-9-19-Final.pdf>
  - Egrants help desk available 7:30am to 4:00pm
    - Email: [WEMEgrants@egrants.us](mailto:WEMEgrants@egrants.us)
    - Help desk phone: 608-242-3231

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## APPENDIX I: SPECIAL CONDITIONS & ADDITIONAL MONITORING

Your grant award will be subject to standard terms and conditions as well as the following special conditions. If you are awarded funds under this announcement, you will be required to provide regular progress reports in the Grant Management System Egrants, as well as upload proper documentation to verify compliance with the conditions below as specified.

### 1. **Copy of Contract Required for Contractor/Consultant cost.**

Copy of contract should be submitted to WEM within 30 days of an agreement between the awarded nonprofit and the contractor. A copy of the contract must be submitted to WEM before incurring any expenses on that contract. If hiring an independent consultant or contractor, (ex. contract security) submit a contract detailing job specifications and deliverables. Upload the contracts in Egrants to the Project Document Attachments on the Reporting page.

### 2. **Equipment Maintenance and Disposal**

Equipment shall be maintained and be available to use as intended by the grant for the duration of its useful life. The sub-recipient is required to maintain proper records. Sub-recipients seeking to dispose or transfer ownership of equipment must contact Wisconsin Emergency Management (WEM) Homeland Security Staff to obtain the Homeland Security Equipment Disposition Form, and further directions. If approved, the sub-recipient must maintain records of any equipment disposal or transfer of ownership. Any proceeds from the sale of equipment at or near the end of its useful life will be considered program revenue and must be reinvested into eligible homeland security expenses.

### 3. **EHP Review, Documentation, & Mitigation**

Sub-recipients will be required to complete an Environmental & Historic Preservation (EHP) form. Recipients and subrecipients proposing projects that have the potential to impact the environment, including, but not limited to, the construction of communication towers, modification or renovation of existing buildings, structures, and facilities, or new construction including replacement of facilities, must participate in the FEMA EHP review process. The EHP review process involves the submission of a detailed project description along with any supporting documentation requested by FEMA to determine whether the proposed project has the potential to impact environmental resources or historic properties. The EHP form is available upon request from the NSGP grant manager.

The sub-recipient is responsible for the preparation of documentation required to fulfill compliance responsibilities under the Federal EHP laws; this documentation may include, but is not limited to site studies, biological assessments, archaeological surveys, environmental assessments, and environmental impact statements. Costs associated with the preparation of these documents are allowable grant expenditures. All costs must be approved by WEM.

The sub-recipient is responsible for the implementation of any mitigation measures required to address potential adverse impacts that may have been identified during the EHP review process.

### 4. **FEMA Budget Hold**

Some awarded sub-recipients may be required to provide additional information to satisfy a FEMA Budget Hold. The information requested by FEMA will be communicated to the nonprofits who received budget holds. The sub-recipients with budget holds will work with the NSGP grant manager to have them removed. No funds can be spent on an awarded sub-grant until the budget hold is removed by FEMA.

## APPENDIX II: DMA/WEM STANDARD TERMS & CONDITIONS

### Article I. Notice of Funding Opportunity Requirements

All 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 award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

### ARTICLE II. Compliance WITH AWARD TERMS AND CONDITIONS

Submission of an application constitutes the subrecipient's agreement to comply with and spend funds consistent with all the terms and conditions of this award. If DMA, WEM determines that noncompliance by the sub-recipient cannot be remedied by imposing additional conditions, WEM may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the Recipient.
- (b) Disallow all, or part of, the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180.
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

### Article III. Subrecipient Responsibilities

In accepting this financial assistance award (grant or cooperative agreement), the Recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with the laws, rules, regulations, and Executive Orders governing grants and cooperative agreements, and these Award Terms and Conditions, including responsibility for complying with any provisions included in the award.

### Article IV. Order of Precedence

Any inconsistency or conflict in the terms and conditions specified in this award will be resolved in accordance with the term or condition that is the stricter of the two.

### Article V. Adherence to Original Project Objectives and Budget Estimates

a) The Recipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by an award. Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of a federal award, and only with the written approval of the Program Authorizing Official or delegate.

### Article VI. Acceptance of Post Award Changes

In the event DMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

### Article VII. Prior approval and modifications

All activity and the corresponding incurred expenses must be approved and have a fully executed award agreement prior to conducting the activity and/or incurring the expense unless otherwise stated in the Notice of Funding Opportunity (NOFO). The following require WEM's **advanced** written approval:

- i. Changes to key personnel
- ii. Changes to the grant period must be submitted prior to the approved end date of the grant.
- iii. Changes to the scope, objectives, performance measures and intent of the approved award.
- iv. Changes to the budget that do not fall within a change to the scope or objective but exceeds the approved budget categories by ten percent (10%) of the total award.

WEM will notify the subrecipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved. Upon approval, WEM will issue a signed Grant Adjustment Notification (GAN). All changes are not officially approved until the GAN is received by the subrecipient.



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## Article VIII. Allowable activity and costs

Only activity and expenses that are approved within the approved award's application may be allowable for reimbursement by grant funds. All approved costs must be allowable, allocable, necessary and reasonable. To be allowable under a grant program, costs must match the sub-grant's approved award and must comply with the following:

- (a) Be incurred and obligated (purchase order issued, class scheduled) within the performance period.
- (b) If incurred within the performance period, payment must be made within 30 days of the grant period ending date.

## Article IX. Project Income

All income generated as a direct result of a grant-funded project shall be deemed program income. Program income must be used for the purpose and under the conditions applicable to the award. Program income should be used as earned and accounted for in your reimbursement request.

## Article X. Duplication of Benefits

Any cost allocable to a particular financial assistance award provided for may not be charged to other financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

## Article XI. Procurement

Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable state law and procurement standards. If the subrecipient does not have their own procurement policies and procedures, then the State of Wisconsin Procurement Policy and Procedures applies. <https://doa.wi.gov/Documents/DEO/ProcurementDeskGuide.pdf>

## Article XII. Travel expenses

Recipients and subrecipients shall use their own **travel** policy and procedures, provided that the policy and procedure conform to applicable state law and not otherwise stated in the Notice of Funding Opportunity. If a subrecipient does not have travel policy and procedures, then the State of Wisconsin Travel Policy – Section F Uniform Travel Schedule Amounts applies as the threshold for what is deemed reasonable.

[https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide\\_2\\_2022.pdf](https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide_2_2022.pdf)

[https://dma.wi.gov/wp-content/library/StateHR/Travel/Section\\_F\\_21-23.pdf](https://dma.wi.gov/wp-content/library/StateHR/Travel/Section_F_21-23.pdf)

## Article XIII. Equipment and supplies

Equipment and supplies must be received and placed into inventory before the end date of the grant. All personnel who utilize **equipment** purchased with funds from this grant must receive training either through the equipment vendor or other competent source specific to that piece of equipment before it is put into service. The sub-recipient is required to maintain proper training and inventory records for the appropriate retention period.

## Article XIV. Acknowledgement of Funding from WEM

Recipients and Subrecipients must acknowledge their use of 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 grant funds.

## Article XV. Payments and closeout

Grant funds will be paid on a reimbursement basis only and disbursed by WEM upon completion of and approval of all monitoring requirements including Program Report(s), Fiscal Report(s), and satisfaction of Special Conditions as well as verification to the best of WEM's ability that all terms, conditions and requirements have been met. If DMA/WEM determines that payment to the subrecipient was not proper after the payment has been made, WEM will notify the subrecipient of recoupment in writing in which the subrecipient has 30 days to repay WEM or appeal the decision.

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## Article XVI. Monitoring

- (a) Subrecipients must complete all required reporting and special conditions as stated in the NOFO, in the grant management system (Egrants) and upon the request of the Grant Manager.
- (c) Subrecipients must submit timely, complete, and accurate reports to the appropriate WEM officials and maintain appropriate backup documentation to support the reports for the appropriate retention period.
- (d) Subrecipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

## Article XVII. Maintaining, retaining and access to records

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

- (a) Subrecipients must maintain official grant records of all grants related activity, adherence to grant requirements and grant funded costs. This includes but is not limited to documentation of actual time and effort of any personnel, materials, supplies, travel expenses, inventory records, management of assets, rational and justification to support any split allocation of costs, and any other records that support the allowability of expenditures of grant funds.
- (b) Subrecipients must cooperate with any compliance reviews or compliance investigations conducted by the State of Wisconsin, Department of Military Affairs and/or Wisconsin Emergency Management.
- (e) Subrecipients must give access to examine and copy records, accounts, and other documents and sources of information related to the financial assistance award and permit access to facilities or personnel.

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

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. Wis. Stats. § 19.62 (5) Personally Identifiable Information (PII) means information that can be associated with a particular individual through one or more identifiers or other information or circumstances. This includes, but is not limited to, Driver License Numbers, Social Security Numbers, Addresses, Telephone numbers, Credit Card information and/or bank account information.

## Article XIX. Nondiscrimination

In connection with the performance of work under this agreement the grantee agrees not to discriminate against any employee or grantee for employment because of age, race, religion, color, handicap, sex, physical condition, or developmental disability as defined in s. 51.01(5) Wis. Stats., arrest or conviction record, sexual orientation, as defined in s. 111.32(13m) Wis. Stat. or national origin, or ancestry, or marital status. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee further agrees to take affirmative action to ensure equal employment opportunities. The Grantee agrees to post in conspicuous places, available for employees and Grantees for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause. The recipient shall comply with Section 504, Rehabilitation Act of 1973 which prohibits discrimination on the basis of a physical condition or handicap and the Age Discrimination Act of 1975, which prohibits discrimination because of age.

## Article XX. Liability

The State of Wisconsin and the Department of Military Affairs, Wisconsin Emergency Management, its agents and employees shall not be liable to the subrecipient, or to any individuals or entities with whom the subrecipient contracts for any direct, indirect, incidental, consequential, or other damages sustained or incurred because of activities, actions or inactions on the part of the subrecipient for services rendered pursuant to the Award Agreement. The subrecipient agrees to indemnify and save and hold the Department of Military Affairs, Wisconsin Emergency Management, its agents and employees harmless from all claims or causes of action arising from the performance of this award by the subrecipient or subrecipient's agent or employees.

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## **Article XXI. Establishment of safeguards**

The recipient shall ensure the establishment of safeguards to prevent employees, consultants, or members of the governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties as specified in Wisconsin Statutes 946.10 and 646.13.

## **Article XXII. Termination of Agreement.**

Any termination of this grant award shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. This grant award may be terminated in whole or in part as follows:

- (a) DMA/WEM may terminate this grant award at any time for cause by delivering thirty (30) days written notice to the Recipient. Upon termination, the awarding agency's liability will be limited to the pro rata cost of the services performed as of the date of termination plus expenses incurred with the prior written approval of the awarding agency.
- (f) DMA/WEM may terminate this grant award at will effective upon delivery of written notice to the Recipient, under any of the following conditions:
- (g) If the awarding agency's funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for purchases of the indicated quantity of services, the grant may be modified to accommodate a reduction or increase in funds.
- (h) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this grant or are no longer eligible for the funding proposed for payments by this grant.
- (i) If any license or certification required by law or regulation to be held by the Recipient to provide the services required by this grant award is for any reason denied, revoked, or not renewed.

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## APPENDIX III: DHS FFY2023 STANDARD TERMS & CONDITIONS

### Article I. Applicability of DHS Standard Terms and Conditions

#### Section 1.01 Recipients and Subrecipients

The Federal Fiscal Year (FFY) 2023 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FFY 2023. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States, Department of Military Affairs and Wisconsin Emergency Management have the right to seek judicial enforcement of these obligations.

#### Section 1.02 Section 1.02 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 II. Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

- (a) DHS financial assistance recipients must complete either the Office of Management and Budget (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 (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
- (b) DHS financial assistance recipients and subrecipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.
- (c) By accepting this agreement, recipients and their executives, as defined in 2 C.F.R. section 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

### Article III. 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.

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

### Article IV. Acknowledgement of Federal Funding from DHS

Recipients 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.

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## **Article V. Activities Conducted Abroad**

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

## **Article VI. Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 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.

## **Article VII. Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 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.

## **Article VIII. Best Practices for Collection and Use of Personally Identifiable Information**

Recipients who collect personally identifiable information {PII} 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 Template as useful resources respectively.

## **Article IX. Civil Rights Act of 1964 -Title VI**

Recipients 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 and 44 C.F.R. Part 7.

## **Article X. Civil Rights Act of 1968**

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 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. Part 100, Subpart D.)

## **Article XI. Copyright**

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

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## **Article XII. Debarment and Suspension**

Recipients 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 XIII. Drug-Free Workplace Regulations**

Recipients 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 Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

## **Article XIV. Duplication of Benefits**

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

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

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (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 and 44 C.F.R. Part 19.

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

Recipient, State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074 which prohibits the use of grant funding to purchase certain types of military equipment by state, local, tribal, and territorial law enforcement agencies and to comply with and implement the recommendations stemming from EO 13688, which established prohibited equipment and controlled equipment lists. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

## **Article XVII. Energy Policy and Conservation Act**

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 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 XVIII. False Claims Act and Program Fraud Civil Remedies**

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



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## **Article XIX. 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 XX. Federal Leadership on Reducing Text Messaging while Driving**

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 XXI. Fly America Act of 1974**

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) 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. section 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 XXII. Hotel and Motel Fire Safety Act of 1990**

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 Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

## **Article XXIII. John S. McCain National Defense Authorization Act of Fiscal Year 2019**

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, 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 XXIV. Limited English Proficiency (Civil Rights Act of 1964 - Title VI)**

Recipients must comply with 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>.

## **Article XXV. Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

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## **Article XXVI. National Environmental Policy Act**

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

## **Article XXVII. 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 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.

## **Article XXVIII. Non-Supplanting Requirement**

Recipients receiving federal financial assistance 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 XXIX. Patents and Intellectual Property Rights**

Recipients 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 XXX. Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 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 XXXI. Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 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.

## **Article XXXII. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

Recipients and subrecipients must comply with the Build America, Buy America Act (BABAA), which was enacted as part of the Infrastructure Investment and Jobs Act Sections 70901-70927, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. See *also* Office of Management and Budget (OMB), Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

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Recipients and subrecipients of federal financial assistance programs for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (a) 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;
- (b) 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
- (c) 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.

## Section 32.01 Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements.

- a) 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:
  - i) *applying the domestic content procurement preference would be inconsistent with the public interest;*
  - ii) *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*
  - iii) *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 OMB Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described. For awards by the Federal Emergency Management Agency (FEMA), existing waivers are available and the waiver process is described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure FEMA.gov. For awards by other DHS components, please contact the applicable DHS FAO.

To see whether a particular DHS federal financial assistance program is considered an infrastructure program and thus required to include a Buy America preference, please either contact the applicable DHS FAO, or for FEMA awards, please see Programs and Definitions: Build America, Buy America Act FEMA.gov.

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## **Article XXXIII. Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients 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 award terms and conditions.

## **Article XXXIV. Reporting Subawards and Executive Compensation**

Reporting of first tier subawards. 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 award terms and conditions.

## **Article XXXV. SAFECOM**

Recipients 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.

## **Article XXXVI. Terrorist Financing**

Recipients must comply with E.O. 13224 and U.S. laws 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 XXXVII. Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons. Recipients 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 at 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 XXXVIII. Universal Identifier and System of Award Management**

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

## **Article XXXIX. USA PATRIOT Act of 2001**

Recipients 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 XL. Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO 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 XLI. Whistleblower Protection Act**

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

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## **Article XLII. 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 funding requires the recipient to comply with all federal, state, and local laws.

DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/ FEMA grant funds, through its EHP review process, as mandated by: the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. To access the FEMA EHP screening form and instructions, go to the DHS/FEMA website. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPO) along with all other pertinent project information. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive 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 pass-through entity, if applicable, and DHS/FEMA.

## **Article XLIII. Disposition of Equipment Acquired Under the Federal Award**

For purposes of original or replacement equipment acquired under this award by a 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 award, you must request instructions from WEM 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.