



Date Adopted

October 7, 2020

Committee

Public Safety

**RESOLUTION TO ACCEPT AND EXECUTE A GRANT FROM THE OFFICE OF
HOMELAND SECURITY AND PREPAREDNESS FOR THE COUNTY OF SALEM**

WHEREAS, the board of Chosen Freeholders ("Board") recognizes the need to assist the Prosecutor's Office, Salem County Sheriff's Office Department of Emergency Services and emergency first responders in a continuing endeavor to make Salem County a safe place; and

WHEREAS, the New Jersey Office of Homeland Security and Preparedness ("OHSP") is offering Salem County project funding to prevent, detect, deter, respond to and recover from threats and acts of terrorism in accordance with the grant application which was approved by the Salem County Working Group on December 03, 2019, and for confidentiality reasons, remains on file with the Department of Emergency Services; and

WHEREAS, the Board recognizes that the FFY20 Homeland Security Grant Program is for the period of September 1, 2020 through August 31, 2023, in the awarded amount of \$135,915.84; and

WHEREAS, the Board approves acceptance of the grant funding.

NOW THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders of the County of Salem that:

1. The project grant award on file with the Department of Emergency Services is approved and accepted.
2. The Salem County Sheriff's Office Department of Emergency Services, the Chief Finance Officer, the project contact person from the Salem County Sheriff's Office Department of Emergency Services, as well as any other necessary parties, are hereby authorized and directed to execute all grant requirements and documentation filings as directed by the New Jersey Office of Homeland Security and Preparedness.
3. Two fully executed copies of this resolution shall be provided to the Salem County Sheriff's Office Department of Emergency Services forthwith.

A handwritten signature in cursive script that reads "R. Scott Griscom".

R. Scott Griscom, Deputy Freeholder Director
Chair, Public Safety Committee

I hereby certify the foregoing to be a true resolution adopted by the Board of Chosen Freeholders of the County of Salem on October 7, 2020.


 STACY L. PENNINGTON
 Clerk of the Board

RECORD OF VOTE

FREEHOLDER	RESOLUTION MOVED	RESOLUTION SECOND	AYE	NAY	ABSTAIN	ABSENT
G. Ostrum, Jr.		✓	✓			
C. Hassler			✓			
L. Ware			✓			
R.S. Griscorn	✓		✓			
B. Laury			✓			

✓ Indicates Vote

Department Initials OEM gr

STATE OF NEW JERSEY FEDERAL GRANT AGREEMENT

Office of Homeland Security and Preparedness And Salem County

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STATE OF NEW JERSEY
NEW JERSEY OFFICE OF HOMELAND SECURITY AND
PREPAREDNESS FEDERAL GRANT AGREEMENT
(Award No. 2020-SS-00042, CFDA No. 97.067)

I. Grant Agreement Data.

This agreement is between Salem County (hereinafter "Subrecipient") and the New Jersey Office of Homeland Security and Preparedness (OHSP) (hereinafter the "SAA" or "State Administrative Agency"). The agreement is undertaken pursuant to the authority of the SAA under Executive Order No. 5 (Corzine 3/16/06) to pass through federal preparedness assistance awarded to New Jersey by the Department of Homeland Security (hereinafter "DHS"). The Subrecipient is being awarded \$135,915.84 of FY20 Grant Program (SHSP - Local Share), (Performance Period: September 1, 2020 to August 31, 2023), to implement the projects within their approved Project Proposal(s).

II. Compliance with Existing Laws.

- A. The Subrecipient, in order to permit the SAA to award this grant, agrees to comply with all federal, state and municipal laws, rules, regulations and requirements generally applicable to the activities in which the Subrecipient is engaged in during the period of performance of this grant.
- B. These laws, rules, regulations and requirements include, but are not limited to the following:
1. New Jersey Department of the Treasury, Office of Management and Budget documents.
 - a. Circular Letters 15-08-OMB, Single Audit Policy for Recipients of federal, state and State Aid Grants: http://www.nj.gov/infobank/circular/cir1508_omb.pdf
 - b. State Grant Compliance Supplement:
<http://www.state.nj.us/treasury/omb/publications/grant/index.shtml>
 2. Uniform Administrative Requirements, Cost Principles and Audit Requirements for federal awards, 2 C.F.R. Part 200, as amended: <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>
 3. State Affirmative Action Legal Citations:

The Subrecipient agrees to require its contractors to comply with the requirements of N.J.A.C. 17:27, applicable provisions of N.J.S.A. 10:5, et al, and P.L. 1975, C127 and all implementing regulations.
 4. The Subrecipient understands and agrees that, in compliance with the Corruption of Public Resources Act, N.J.S.A. 2C:27-12, it cannot knowingly misuse state grant funds for an unauthorized purpose. Violations under this act could result in a prison term of up to 20 years, and a fine of up to \$500,000, under N.J.S.A. 2C:30-8.

- C. The Subrecipient is in compliance with all federal NIMS compliance requirements, to include NIMSCAST reporting requirements, Homeland Security Presidential Directive No. 5: <https://www.dhs.gov/publication/homeland-security-presidential-directive-5> and NIMS objectives: http://www.fema.gov/pdf/emergency/nims/FY2009_NIMS_Implementation_Chart.pdf The Resource Typing Library Tool is available through: <https://rtlt.preptoolkit.fema.gov/Public>
- D. As a condition of receipt of federal financial assistance, the recipient is required to comply with applicable provisions of laws and policies prohibiting discrimination, including but not limited to:
1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color or national origin (including limited English proficiency).
 1. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability.
 2. Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in education programs or activities.
 3. Age Discrimination Act of 1975, which prohibits discrimination based on age.
 4. U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits discrimination based on religion in social service programs.
- E. Failure to comply with the laws, rules and regulations shall be grounds to terminate this grant.

III. Bonding and Insurance.

Bonding and insurance shall be provided by the Subrecipient and proof of bonding and insurance must be retained on file by the Subrecipient.

IV. Indemnification.

The Subrecipient shall be solely responsible for and shall keep, save and hold the State of New Jersey harmless from all claims, loss, liability, expense or damage resulting from all mental or physical injuries or disabilities, including death, to its employees or recipients of the Subrecipient's services or to any other persons, or from any damage to any property sustained in connection with the delivery of the Subrecipient's services that results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from the Subrecipient's failure to provide for the safety and protection of its employees, whether or not due to negligence, fault or default of the Subrecipient. The Subrecipient's responsibility shall also include all legal fees and costs that may arise from these actions. The Subrecipient's liability under this agreement

shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

V. Assignability.

The Subrecipient shall not subcontract any of the work or services covered by this grant, nor shall any interest be assigned or transferred, except as may be provided for in this grant or with the express written approval of OHSP.

VI. Availability of Funds.

The Subrecipient shall recognize and agree that both the initial provision of funding and the continuation of such funding under the Grant Agreement is expressly dependent upon the availability to OHSP of funds appropriated by the State Legislature from the state and/or federal revenue or such other funding sources as may be applicable. A failure of OHSP to make any payments under the Grant Agreement or to observe and perform any condition on its part to be performed under the Grant Agreement as a result of the failure of the Legislature to appropriate shall not, in any manner, constitute a breach of the Grant Agreement by OHSP or an event of default under the Grant Agreement and, OHSP shall not be held liable for any breach of the Grant Agreement because of the absence of available funding appropriations. In addition, future funding shall not be anticipated from OHSP beyond the duration of the award period set forth in the Grant Agreement, and in no event shall the Grant Agreement be construed as a commitment by OHSP to expend funds beyond the termination date set in the Grant Agreement.

VII. Special Grant Conditions.

- A. Subrecipient may be considered "high risk" if OHSP determines that a Subrecipient meets any of the following criteria contained within 2 C.F.R. Part 200, as amended, Sections 200.205 through 200.207.
- B. The Subrecipient agrees to maintain, at its own expense, all equipment originally purchased with grant funds. Equipment may also be maintained with use of HSGP funding, if permitted.
- C. The Subrecipient will identify a project manager and/or a Point of Contact (POC) to ensure all tasks, services and products, quality of deliverables and timeliness of all services are satisfied within the contract requirements and reviewing all contract packing slips and billing invoices assuring that the contractor is paid only for services rendered and goods delivered to the projects.
- D. The Subrecipient will absorb costs beyond funding awarded and/or adding of projects not included in the approved Project Proposal.
- E. The Subrecipient will ensure sustainability by assuming all responsibility of operating, maintaining and incurring future costs associated with the equipment and services purchased.
- F. For federal grants, the Subrecipient agrees to sign the attached Non-Supplanting Certification Form (Attachment A); agrees to comply with the attached federal Standard Assurances (Attachment B) and Special Conditions (Attachment C); to sign the attached Certification

Regarding Lobbying (Attachment D), Debarment , Suspension, Ineligibility and Voluntary Exclusion (Attachment E) and Grant Program Directorate Information Bulletin No. 407 – Use of Grant Funds for Controlled Equipment and Directorate Information Bulletin No. 407a – Use of Grant Funds for Controlled Equipment: Update for Fiscal Year 2017 (Attachment F).

G. Furthermore, the following projects require special conditions when funded:

- o CBRNE/HazMat Projects (Attachment G)
- o Interoperability Projects (Attachment H)
- o Automated License Plate Readers/Certification Form (Attachment I)
- o Specialized Vehicles (Attachment J)
- o Information Technology Projects (Attachment K)
- o AG's Protocol for Processing and Issuing I.D. Cards (Attachment L)
- o Exercise Salary Reimbursements (Attachment M)
- o Extension Request Form (Attachment N)

When applicable, the Subrecipient shall comply with the special conditions required for each of the above of which are available on the OHSP website:
<http://www.njhomelandsecurity.gov/grants-docs.html>.

- H. Environmental and Historic Preservation (EHP) Compliance: EHP requires that any federally funded grant activity be reviewed for the potential to have an adverse impact on communities, public health or the environment. In order to fulfill its requirements, DHS mandates awardees and/or responsible jurisdiction Subrecipients to complete and submit an EHP Compliance Checklist indicating any environmental effects. The EHP Checklist is available at <http://www.njhomelandsecurity.gov/grants-docs.html>.
- I. All allocations and use of funds under this grant must be in accordance with any applicable Program Guidelines and Application Kit as well as the special conditions and terms provided by DHS.
- J. All homeland security funded purchases shall be considered regional assets and shall be made available consistent with Mutual Aid Agreements and/or Declaration of State of Emergency. In such cases, requests for regional assets shall be made through the county Emergency Operations Centers/State Emergency Operations Center to assure deployment prioritization needs.

VIII. Financial Management System.

The Subrecipient shall be responsible for maintaining a financial management system and will immediately notify OHSP when the Subrecipient cannot comply with the requirements established in this section of the grant. The Subrecipient's financial management system shall include all requirements set forth in 2 C.F.R. 200, as amended, Sections 200.302 and 200.303.

IX. Method of Reimbursement.

- A. Reimbursements made to the Subrecipient shall be in the form of electronic transfer by OHSP, upon receipt by OHSP of a properly executed payment voucher/purchase order, approved invoice and proof of payment, which will be properly uploaded within the OHSP administered Grant Management System (hereinafter GMS). Reimbursement requests must be submitted to OHSP with a properly completed Request for Reimbursement form, to include the signature of the agency's treasurer or fiscal officer. Subrecipient reimbursement requests must be submitted to OHSP on a quarterly calendar basis for costs incurred during the quarter for approved goods/services and/or for any approved salary/fringe benefit costs. Quarterly reimbursement requests must be submitted to OHSP within ten (10) business days after the close of each quarter. The OHSP may not take any action on or process any reimbursement request that is more than twelve (12) months past the documented date the Subrecipient paid their vendor for the good or service for which the Subrecipient is seeking reimbursement. If a Subrecipient is not registered to receive electronic fund transfers from New Jersey, they must contact the OHSP Chief Financial Officer.

NOTE: Article 18, Section A above pertains to agencies seeking reimbursement. In accordance with OMB CL 05-02, state agencies are not reimbursed.

- B. Equipment purchased with HSGP funding that meets the requirements for entry into the State's Resource Directory Data Base (RDDDB) must be properly entered once deployed and made operational. The RDDDB is maintained by the New Jersey Division of State Police Recovery Bureau, Public Assistance/Support Services Unit, (609) 963-6996. A copy of the RDDDB entry will be included with each request for reimbursement when applicable.
- C. Salary/Fringe reimbursement will only be processed after OHSP has received and approved the required periodic time and activity "Personnel Certification Form" available on the OHSP website (<http://www.njhomelandsecurity.gov/grants-docs.html>).

X. Allowable Costs.

- A. The Subrecipient acknowledges and agrees that expenditures by the Subrecipient shall be solely for the purposes of implementing the projects set forth in the Subrecipient's approved Project Proposal(s).
- B. Grant funds must be used for allowable costs consistent with the provision of state and federal cost principles.

XI. Period of Performance.

Each Homeland Security Grant Program has a period of performance established by the granting authority. The period of performance sets the starting date and the closing date in which grant funds may be expended.

XII. Matching and Cost Sharing.

The Subrecipient shall be required to account to the satisfaction of OHSP matching and cost sharing requirements (if applicable) of the grant in accordance with state and/or federal requirements.

XIII. Program Income.

Program income shall be defined as gross income earned by the Subrecipient from federal grant-supported activities. Such earnings include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees and royalties on patents and copyrights as defined within 2 C.F.R 200, as amended, Section 200.307.

XIV. Audit Requirements.

This grant is conveyed by the audit requirements of the Department of the Treasury Circular Letter 15-08-OMB, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid.

XV. Project Revisions and Modifications.

Project revisions and modifications must be requested by the Subrecipient and approved by OHSP in writing. A revised Project Proposal(s) will be required.

XVI. Property Management and Disposition Standards.

- A. Executive level state agencies are required to comply with state OMB CL#11-18 (<http://www.state.nj.us:infobank/circular/cir1118b.pdf>) and OMB CL#11-19 (<http://www.state.nj.us:infobank/circular/cir1119b.pdf>) and OMB State Fiscal Year End Guidelines for reporting of Capital and Fixed Assets. Non-executive state departments (i.e. colleges and universities, New Jersey Transit agencies, Port Authority agencies, local units of government, nonprofit organizations, etc.) must adhere to and follow their respective inventory and fixed inventory policies and procedures. Nonprofit organization requirements/standards are more specifically set forth in Paragraph C below.
- B. The Subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security."
- C. Inventory Requirements; Nonprofits, Counties, Municipalities, Corporations, etc.
 1. The Subrecipient's asset inventory requirements for equipment acquired with federal funds and federally owned equipment shall include the following per 2 C.F.R. 200, as amended, Section 200.313(d).
 - a. A description of the equipment.

- b. Manufacturer's serial number, model number, federal stock number, national stock number or other identification number.
 - c. Source of the equipment, including the award number.
 - d. Title holder.
 - e. Acquisition date (or date received, if the equipment was furnished by the federal government) and cost.
 - f. Information from which one can calculate the percentage of federal participation in the cost of the equipment (not applicable to equipment furnished by the federal government).
 - g. Location and condition of the equipment and the date the information was reported.
 - h. Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Subrecipient compensates the federal awarding agency for its share.
- 2. Equipment owned by the federal government shall be identified to indicate federal ownership.
 - 3. A physical inventory of property must be taken and the results reconciled with the equipment records at least once every two years.
- D. Disposition of Property.

When original or replacement equipment acquired under a grant or sub-grant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be in accordance with 2 C.F.R. 200, as amended, Section 200.313(e).

XVII. Procurement Standards.

- A. Procurement of supplies, equipment and other services with funds provided by this grant shall be accomplished in a manner generally consistent with federal and state requirements.
- B. Adherence to the standards contained in the applicable federal and state laws and regulations does not relieve the Subrecipient of the contractual responsibilities arising under its procurements. The Subrecipient is the responsible authority, without recourse to OHSP, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurement entered in support of a grant.

- C. Subrecipients who receive funding from a Homeland Security Grant Program shall ensure that all vendors they intend to do business with are not listed as an Excluded Entity on the federal System for Award Management (SAM) or a debarred agency on New Jersey's Consolidated Debarment Report. All Subrecipients will conduct a check with the federal website <http://www.SAM.gov/portal/public/SAM/> and the state website <http://www.state.nj.us/treasury/revenue/debarment.index.shtml> Subrecipients shall make a copy of the search results and retain with the other procurement documents that will be subject to audit at a later time.
- D. All Subrecipients must enter relevant purchasing documentation into the GMS. Purchasing documentation shall include, but is not limited to, a Subrecipient's purchase order, vendor's invoice and Subrecipient's proof of payment or a printout of a New Jersey Comprehensive Financial System (NJCFIS) Open Payment Voucher Line Table report.

XVIII. Monitoring of Program Performance.

- A. Subrecipient monitoring must cover each program, function or activity to monitor performance under grant supported activities to assure time schedules and objectives are being met, projected work units by time periods are being accomplished and other performance goals are being achieved as contained within 2 C.F.R 200, as amended, Section 200.328.
- B. Based on a review of a Subrecipient's programmatic/financial performance, OHSP reserves the right to partially reduce and/or rescind a Subrecipient's project funding. Examples include, but are not limited to, failure to meet the 50% and 100% legal encumbrance dates; failure to submit reimbursement requests within the prescribed date; and failure to account for funding in GMS.
- C. OHSP will, upon reasonable notice, conduct monitoring reviews for any of the following purposes:
 - 1. To review program accomplishments and progress.
 - 2. To provide such technical assistance as may be required, to include debarment searches and competitive bidding requirements.
 - 3. To perform fiscal reviews to ensure grant funds are being properly expended in a timely manner in accordance with Paragraph B above.
 - 4. To make recommendations for best practices and/or corrective action(s).

XIX. Financial and Performance Reporting.

- A. The Subrecipient may be required to provide Biannual Strategy Implementation Reports (BSIR) designed to outline how this grant funding is being used to meet the goals and objectives outlined in the state and urban areas homeland security strategies.
- B. The Subrecipient shall utilize OHSP's GMS in addition to the Subrecipient's financial management accounting system.

1. The GMS is a web-based application developed to assist with the grant management process.
 2. The Subrecipient agrees to maintain on its staff at least one person experienced in the proper input of data into the GMS system. Training is available through OHSP and will be provided by the OHSP GMS Administrator.
 3. Any unapproved item(s) will not be reimbursed.
 4. The Subrecipient shall maintain GMS with the most current planning, procurement and expenditure information.
 5. Any request by a third party for a GMS report printout shall be handled in accordance with the following procedure:
 - a. The GMS is operated by the NJ OHSP and, as such, it is subject to various protections under Executive Order No. 5 (Corzine).
 - b. The Subrecipient shall not disseminate reports generated from GMS to any third party absent OHSP approval, this includes media, press, OPRA requests and the like. In the event there is a request for any GMS printouts, the Subrecipient shall refer the requesting party to OHSP. OHSP will make any and all appropriate disseminations of GMS reports.
- C. The Subrecipient shall promptly respond to requests by OHSP for programmatic budgetary, fiscal and other information or data related to the administration of this grant.
- D. The Subrecipient may be required to submit a final programmatic report at the conclusion of the grant as prescribed by OHSP.

XX. Access to Records.

- A. In accepting this grant, the Subrecipient agrees to make available to OHSP and/or any federal agency whose funds are expended in the course of this grant or any of their duly authorized representatives, pertinent accounting records, books, documents and papers as may be necessary to monitor and audit the Subrecipient's operation, in compliance with 2 C.F.R 200, as amended, Section 336.
- B. All visitations, inspections and audits, including visits and OHSP requests for documentation in discharge of OHSP's responsibilities shall, as a general rule, provide prior notice when reasonable and practical to do so. However, OHSP retains the right to make unannounced visitations, inspections and audits as deemed necessary.
- C. OHSP reserves the right to have access to records of any Subrecipient and requires the Subrecipient to provide for OHSP's access to such records in any grant with the Subrecipient.

- D. OHSP reserves the right to have access to all work papers produced in connection with audits made by the Subrecipient or independent certified public accountants, registered municipal accountants or licensed public accounts hired by the Subrecipient to perform such audit.

XXI. Record Retention.

- A. Except as otherwise provided, financial and programmatic records, support documents, statistical records and all other records pertinent to the grant shall be retained for a period of seven (7) years, unless directed to extend the retention by OHSP.
 - 1. If any litigation, claim, negotiation, action or audit involving the records is started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues and appeals which arise from it, or until the end of the regular seven (7) year period, whichever is later, unless otherwise directed by OHSP.
 - 2. Records for non-expendable property acquired with OHSP funds shall be retained for seven (7) years after its final disposition, unless otherwise provided by OHSP.
 - 3. The general retention period for all records starts from the date of the final subject close out letter.
- B. OHSP may request transfer of certain records to its custody from the Subrecipient when it determines that the records possess long-term retention value and will make arrangements with the Subrecipient to retain any records that are continuously needed for joint use.

XXII. Remedies for Non-compliance.

If the Subrecipient materially fails to comply with the term of an award, whether stated in a state or federal statute/regulation, an assurance, in a state plan or application, a notice of award or elsewhere, OHSP may place a Subrecipient in an “At Risk” status, meaning their status as a Subrecipient may, because of failure to comply with defined terms and conditions of a grant program, be in jeopardy of further participation. Should an agency be placed in this status, they will be formally noticed with a written correspondence. The agency may also be given a Corrective Action Plan (CAP) and an opportunity to correct the findings at hand. Failure to comply with a CAP may result in one or more of the following actions, as appropriate, given the circumstances:

- A. Temporarily withhold cash payment pending correction of the deficiency by the Subrecipient or take more severe enforcement action.
- B. Disallow all or part of the cost of the activity or action not in compliance.
- C. Wholly or partly suspend or terminate the current award for the Subrecipient’s program.
- D. Withhold further awards for the program.

- E. Request the balance of grant funds to be returned and/or seek reimbursement for funds expended that were not in compliance with the terms and conditions of the Grant Agreement.
- F. Take other remedies that may be legally available.

XXIII. Termination and Suspension.

A. The following definitions shall apply for the purposes of this Section:

1. Termination.

The termination of a grant means the cancellation of assistance, in whole or in part, under a grant at any time prior to the date of completion.

2. Suspension.

The suspension of a grant is an action by OHSP which temporarily suspends assistance under the grant pending corrective action by the Subrecipient or pending a decision to terminate the grant by OHSP.

3. Disallowable Costs.

Disallowed costs are those charges to the grant which OHSP or its representatives shall determine to be beyond the scope of the purpose of the grant, excessive or otherwise unallowable.

- B. If the Subrecipient fails to comply with grant award stipulations, standards or conditions, OHSP may suspend the grant and withhold further reimbursements; prohibit the Subrecipient from incurring additional obligations of grant funds pending corrective action by the Subrecipient; decide to terminate the grant in accordance with paragraph C below. OHSP shall allow all necessary and proper costs, which the Subrecipient could not reasonably avoid during the period of suspension, provided they meet federal and state requirements.
- C. OHSP may terminate the grant in whole or in part whenever it is determined that the Subrecipient has failed to comply with the conditions of the grant. OHSP shall promptly notify the Subrecipient in writing of the determination and the reasons for the termination together with the effective date. Payments made to the Subrecipient or recoveries by OHSP under the grant terminated for cause shall be in accord with the legal right and liability of the parties.
- D. OHSP and the Subrecipient may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and in case of partial terminations, the portion to be terminated. The Subrecipient shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible.

XXIV. Grant Close-Out Procedures.

- A. The following definitions shall apply for the purpose of this section.
 - 1. The closeout of a grant is the process by which OHSP determines that all applicable administrative actions and all required work of the grant have been completed by the Sub-recipient.
 - 2. Date of completion refers to the date when all activities under the grant are completed or the expiration date in the award document, or any supplement or amendment thereto.
- B. OHSP may permit extensions when requested in writing by the Subrecipient.
- C. In the event an audit has not been performed prior to the close out of the grant, OHSP retains the right to recover any disallowable costs identified in the final audit report.

The effective date of this Grant Agreement shall be 9/1/20, 2020, and it shall expire at midnight, August 31, 2023.

February 1, 2022: Midterm financial and programmatic review, at least fifty percent (50%) of the award shall be legally/contractually obligated.

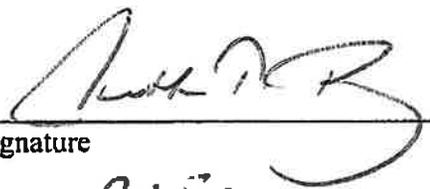
February 1, 2023: All awarded funds (100%) shall be legally/contractually obligated.

July 31, 2023: Final reimbursement request packages shall be submitted. (Reimbursement requests shall be submitted quarterly during the performance period.)

IN WITNESS WHEREOF, the parties have caused this Grant Agreement to be executed as follows:

**FOR THE SUBRECIPIENT:
Salem County**

WITNESS:



Signature
Date: 9-25-20



Signature
Date: 9-25-20

**FOR THE OFFICE OF HOMELAND
SECURITY AND PREPAREDNESS:**

WITNESS:

Jared M. Maples
Director
Date: _____

Signature
Date: _____



NJOHSP

OFFICE OF HOMELAND SECURITY AND PREPAREDNESS

New Jersey Office of Homeland Security and Preparedness Non-Supplanting Certification

Non-Supplanting Certification: This certification which is a required component of the Grant Agreement, affirms that OHSP State Aid and/or Federal Homeland Security grants funds will be used to supplement (add to) existing funds, and will not supplant (replace) funds that have been appropriated for the same purpose.

Certification Statement:

I certify that any funds awarded under this Grant Agreement will be used to supplement existing funds for program activities, and will not replace (supplant) non-Federal Funds.

Jeffrey T. Ridgway Sr.
NAME (Authorizing Official)

[Signature]
SIGNATURE

DATE: 9-25-2020

ATTACHMENT A



NJOHSP

OFFICE OF HOMELAND SECURITY AND PREPAREDNESS

STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including all relevant OMB Circulars; Ex. Order 12372 (intergovernmental review of federal programs); and 2 C.F.R. 200, as amended, (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It 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.
3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 2 C.F.R. 200, as amended.
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (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).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000 (d)); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).
7. If a governmental entity:
 - a) It will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - b) It will comply with requirement of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.



AGREEMENT ARTICLES
Homeland Security Grant Program

GRANTEE: New Jersey Office of Homeland Security
and Preparedness
PROGRAM: Homeland Security Grant Program
AGREEMENT NUMBER: EMW-2018-SS-00028-S01

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Article I - Summary Description of Award

The purpose of the FY 2018 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, HSGP supports the goal to Strengthen National Preparedness and Resilience. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. This HSGP award consists of State Homeland Security Program (SHSP) funding in the amount of \$7,993,000 and Urban Area Security Initiative (UASI) funding in the amount of \$22,750,000. These grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas.

Article II - Acknowledgment of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article III - Activities Conducted Abroad

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

Article IV - Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975* (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 V - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities. (42 U.S.C. Sections 12101- 12213).

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

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

Article VII - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (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 VIII - Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (See 42 U.S.C. Section 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Section 100.201.)

Article IX - 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.

Article X - Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180. 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 XI - 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 XII - 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 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 8101).

Article XIII - 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 (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 XIV - Energy Policy and Conservation Act

Recipients must comply with the requirements of The Energy Policy and Conservation Act (42 U.S.C. Section 6201) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XV - False Claims Act and Program Fraud Civil Remedies

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

ATTACHMENT C

Article XVI - Federal Debt Status

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 XVII - 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 XVIII - 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. Section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974* (49 U.S.C. 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 XIX - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, (15 U.S.C. Section 2225a), recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, as amended, (15 U.S.C. Section 2225).

Article XX - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

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

Article XXI - 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.

Article XXII - National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires 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 XXIII - 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 XXIV - 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 XXV - Notice of Funding Opportunity Requirements

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

Article XXVI - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. Section 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from 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 XXVII - Procurement of Recovered Materials

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

Article XXVIII - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. Section 794), as amended, 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 XXIX - Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the recipient 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 XXX - Reporting Subawards and Executive Compensation

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 XXXI - 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 XXXII - Terrorist Financing

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

Article XXXIII - Trafficking Victims Protection Act of 2000

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

ATTACHMENT C

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

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.

Article XXXV - USA Patriot Act of 2001

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

Article XXXVI - 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 XXXVII - 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. 4712, and 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.

Article XXXVIII - DHS Specific 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.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, recipients have been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex, age, disability, religion, or familial status, recipients must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS FAO and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at ocr@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
6. In the event courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS FAO and the CRCL office by e-mail or mail at the addresses listed above.

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

Article XXXIX - Assurances, Administrative Requirements, Cost Principles, and Audit Requirements

DHS financial assistance recipients must complete either the OMB Standard Form) 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 applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

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

Article XL - Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. Section 200.308. For awards with an approved budget greater than the simplified acquisition threshold as defined at 2 C.F.R. Section 200.88 (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article XLI - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.

Article XLII - Acceptance of Post Award Changes

In the event FEMA 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. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

BUDGET COST CATEGORIES

Personnel	\$0.00
Fringe Benefits	\$0.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Contractual	\$30,743,000.00
Construction	\$0.00
Indirect Charges	\$0.00
Other	\$0.00



NJOHSP

OFFICE OF HOMELAND SECURITY AND PREPAREDNESS

CERTIFICATION REGARDING LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 2 CFR 200, as amended, for persons entering into a grant or cooperative agreement over \$100,000, as defined by 2 CFR 200, as amended, the State must include the language of the certification below in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and require all sub-recipients to certify and disclose accordingly. Sub-recipients should refer to the regulations cited above and should also review the instructions included in the regulations before completing this form.

The sub-recipient certifies, to the best of its knowledge and belief, that

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or 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; and

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

Jeffrey T. Ridgway Sr. / Administrator

Name and Title of Authorized Representative

Chris J. R. A.

Signature

Salem County
92 MARKET ST. SALEM NJ 08079

Name and Address of Organization

Date

9/25/2020

ATTACHMENT D

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department of agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

John M. Hatten (County Sheriff)
Name and Title of Authorized Representative

John M. Hatten
Signature

9/17/90
Date

Salem County Sheriff's Office of Emergency Services
Name of Organization

135 County Rd Woodstown NJ 08098
Address of Organization

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposes," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of reports in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



FEMA

**Grant Programs Directorate Information Bulletin
No. 407
March 9, 2016**

MEMORANDUM FOR: All State Administrative Agency Heads
All State Administrative Agency Points of Contact
All Urban Area Security Initiative Points of Contact
All State Homeland Security Directors
All State Emergency Management Agency Directors
All Eligible Transit Agencies
All Private Sector Transportation Security Partners
All Public and Private Sector Port Security Partners
All Tribal Nation Points of Contact

FROM: Brian E. Kamoie
Assistant Administrator for Grant Programs
Federal Emergency Management Agency

A handwritten signature in blue ink, appearing to read "Brian E. Kamoie", is positioned to the right of the "FROM:" field.

SUBJECT: Use of Grant Funds for Controlled Equipment

The purpose of this Information Bulletin (IB) is to provide grant applicants, recipients, and subrecipients with guidance regarding the requirements when applying for, or expending grant funds for, controlled equipment expenditures and using grant-funded controlled equipment. This IB is applicable to all grants awarded by the Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) on or after October 1, 2015.¹

This IB was developed as part of the implementation of *Executive Order (EO) 13688: Federal Support for Local Law Enforcement Equipment Acquisition*, issued January 16, 2015, and the *Recommendations Pursuant to Executive Order 13688*, which collectively established a *Prohibited Equipment List* and a *Controlled Equipment List*, and identified actions necessary to improve Federal support for the appropriate acquisition, use, and transfer of controlled equipment by state, local, tribal, territorial, and private grant recipients.

The *Prohibited Equipment List* identifies categories of equipment that recipients are prohibited from acquiring using federally-provided funds or via transfer from federal agencies, and includes:

¹ Information Bulletin 407 does not apply to FEMA non-disaster grant programs awarded in Fiscal Year 2015 or in prior years, if such awards were made by FEMA to the grant recipient prior to October 1, 2015. However, grant recipients should consult the Authorized Equipment List for additional instructions that were in place for FY 2015 and prior years prior to obligating funds for this category of equipment. In some categories, grant recipients must obtain a waiver from FEMA by consulting with their Program Analyst and providing a detailed justification for obligating funds in this category, and receiving approval to obligate funds as indicated in the Authorized Equipment List.

- **Tracked Armored Vehicles:** Vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- **Weaponized Aircraft, Vessels, and Vehicles of Any Kind:** These items will be prohibited from purchase or transfer with weapons installed.
- **Firearms of .50-Caliber or Higher**
- **Ammunition of .50-Caliber or Higher**
- **Grenade Launchers:** Firearm or firearm accessory designed to launch small explosive projectiles.
- **Bayonets:** Large knives designed to be attached to the muzzle of a rifle/shotgun/long gun for the purposes of hand-to-hand combat.
- **Camouflage Uniforms Used for Urban Settings:** Does not include woodland or desert patterns or solid color uniforms.

The *Controlled Equipment List* identifies categories of equipment that have significant utility for state, local, tribal, territorial, and private grant recipients. Recipients may continue to acquire controlled equipment through Federal assistance programs. However, because of the nature of the equipment and the potential impact on communities, additional controls will be imposed on the acquisition, use, and transfer of this equipment. While several of the items below are not allowable expenses under DHS/FEMA preparedness grants², the full *Controlled Equipment List* includes:

- **Manned Aircraft, Fixed Wing:** Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift.
- **Manned Aircraft, Rotary Wing:** Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift.
- **Unmanned Aerial Vehicles:** A remotely piloted, powered aircraft without a crew aboard (including Small Unmanned Aerial Systems (SUAS)).
- **Armored Vehicles, Wheeled:** Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier.
- **Tactical Vehicles, Wheeled:** A vehicle purpose-built to operate on- and off-road in support of military operations, such as a HMMWV ("Humvee"), 2.5-ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached.
- **Command and Control Vehicles:** Any wheeled vehicle either purpose-built or modified to facilitate the operational control and direction of public safety units responding to an incident.
- **Specialized Firearms and Ammunition Under .50-Caliber (excludes firearms and ammunition for service-issued weapons):** Weapons and corresponding ammunition for specialized operations or assignment. This excludes service-issued handguns, rifles, or shotguns that are issued or approved by the agency to be used during the course of regularly assigned duties (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program).
- **Explosives and Pyrotechnics:** Includes "flash bangs" as well as explosive

² Recipients and sub-recipients should refer to the annual Notice of Funding Opportunity, the Authorized Equipment List, or contact their FEMA Program Analyst for information regarding the allowability of specific equipment categories.

breaching tools often used by special operations units.

- **Breaching Apparatus (e.g., battering ram, similar entry device):** Tools designed to provide law enforcement rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (a battering ram), ballistic (slugs), or explosive.
- **Riot Batons (excluding service-issued telescopic or fixed-length straight batons):** Non-expandable baton of greater length (generally in excess of 24 inches) than service-issued types and are intended to protect its wielder during melees by providing distance from assailants. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program).
- **Riot Helmets:** Helmets designed to protect the wearer's face and head from injury during melees from projectiles including rocks, bricks, liquids, etc. Riot helmets include a visor which protects the face. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program).
- **Riot Shields:** Shields intended to protect wielders from their head to their knees in melees. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. Riot shields may also be used as an offensive weapon to push opponents. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program).

While EO 13688 speaks directly to Law Enforcement Agencies (LEAs), through this IB, FEMA will apply the same requirements and conditions to all controlled equipment regardless of the recipient's designation as, or affiliation with, law enforcement to ensure a consistent approach toward controlled equipment expenditures and use by all FEMA recipients.

1. Application Requirements for Controlled Equipment Expenditures

Any entity³ that applies for FEMA grants for controlled equipment expenditures must complete FEMA Form (FF) 087-0-0-1 *Controlled Equipment Request Form* and submit it to the State Administrative Agency (SAA) or to FEMA if applying through a grant program whose applications are made directly to FEMA. The form may be submitted at the time of application for the award or can be submitted at any time during the award period of performance as long as it is prior to the acquisition of the controlled equipment.

Using FF 087-0-0-1, the entity must include a clear and persuasive explanation demonstrating the need for the controlled equipment and the purpose that it will serve. The entity will be asked to supply information about the current inventory of controlled equipment acquired through Federal programs, pending applications for controlled equipment, previous denials for controlled

³ Entity refers to the recipient or subrecipient that will be the end user of the controlled equipment. *Recipient* - a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients. See also §200.69 Non-Federal entity. *Subrecipient* - a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

equipment, and any findings of violations of federal civil rights statutes or programmatic terms involving controlled equipment.

Additionally, using FF 087-0-0-1, the entity will certify that they have adopted, or will adopt prior to acquiring controlled equipment, applicable policies and protocols, meet the training requirements, and will adhere to the records keeping requirements and after-action report requirements, as described below. The entity will also certify that it will abide by all applicable federal, state, local, and tribal laws, regulations, and programmatic terms and conditions.

II. Policy and Protocol Requirements

- a) The entity must have written policies and protocols that specifically govern the (1) appropriate use of controlled equipment; (2) supervision of use of controlled equipment; (3) effectiveness evaluation; (4) auditing and accountability; and (5) transparency and notice considerations as defined below:

- 1) ***Appropriate Use of Controlled Equipment:*** Requesting organizations should examine scenarios in which controlled equipment will likely be deployed, the decision-making processes that will determine whether controlled equipment is used, and the potential that both use and misuse of controlled equipment could create fear and distrust in the community. Protocols should consider whether measures can be taken to mitigate that effect (e.g., keep armored vehicles at a staging area until needed) and any alternatives to the use of such equipment and tactics to minimize negative effects on the community, while preserving officer safety. (Recommendations Pursuant to EO 13688, pg. 19 – 20)
- 2) ***Supervision of Use:*** The protocols must specify appropriate supervision of personnel operating or utilizing controlled equipment. Supervision must be tailored to the type of equipment being used and the nature of the engagement or operation during which the equipment will be used. Policies must describe when a supervisor of appropriate authority is required to be present and actively overseeing the equipment's use in the field. (Recommendations Pursuant to EO 13688, pg. 20)
- 3) ***Effectiveness Evaluation:*** The protocols must articulate that the requesting organization will monitor and evaluate regularly the effectiveness and value of controlled equipment to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. Requesting organizations should review after-action reports routinely and analyze any data on, for example, how often controlled equipment is used or whether controlled equipment is used more frequently in certain law enforcement operations or in particular locations or neighborhoods. (Recommendations Pursuant to EO 13688, pg. 20)
- 4) ***Auditing and Accountability:*** There must be strong auditing and accountability provisions in the protocols that state that the requesting organization's personnel will agree to and comply with and be held accountable if they do not adhere to agency, state, local, tribal, territorial, and Federal policies associated with the use of controlled equipment. (Recommendations Pursuant to EO 13688, pg. 20)

5) **Transparency and Notice Consideration:** The protocols must articulate that the requesting organization will engage the community regarding acquisition of controlled equipment, policies governing its use, and review of significant incidents (see Recommendation 2.3 below), with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures. (Recommendations Pursuant to EO 13688, pg. 20)

b) **For LEAs Only⁴**

LEA recipients or subrecipients requesting controlled equipment must have written policies and protocols on (1) Community Policing; (2) Constitutional Policing; and (3) Community Input and Impact Considerations.⁵

III. Training Requirements

The entity must provide or obtain necessary training regarding appropriate use of controlled equipment prior to the use of controlled equipment, including:

a) **Technical Proficiency:**

All entity personnel who will use controlled equipment must be trained properly on, and have achieved technical proficiency in, the operation or utilization of the controlled equipment at issue prior to its use. The controlled equipment may be used for technical training and certification prior to deployment for official use.

b) **Scenario-Based Training:**

To the extent possible, trainings related to controlled equipment should include scenario-based training. Personnel authorizing or directing the use of controlled equipment should have enhanced scenario-based training to examine, deliberate, and review the circumstances in which controlled equipment should or should not be used. To the extent possible, the LEA specifically should include scenario-based training that combines constitutional and community policing principles with equipment-specific training.

c) **Training on Civil Rights and Liberties**

Annual, appropriate, and relevant training for grant recipient personnel on the 1st, 4th, and 14th Amendments is required. Training on how to protect the civil rights and civil liberties of those in the surrounding community where the controlled equipment will be used is vital to ensuring that the use of controlled equipment complies with constitutional standards for the protection of civil rights and civil liberties. Training objectives should define and explain relevant concepts and demonstrate the application of such concepts through equipment-based scenarios to show appropriate and proper use of controlled

⁴ LEAs include contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant funded controlled equipment.

⁵ *Community Policing* is the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs and, in turn, enhances LEAs ability to investigate crimes and keep the peace. *Constitutional Policing* protocols emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies must include protocols on First Amendment, Fourth Amendment, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with Federal and State civil rights laws. *Community Input and Impact* protocols must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs' actions, role in, and relationships with the community. Law enforcement exists to protect and serve the community, so it is axiomatic that the community should be aware of and have a say in how they are policed. LEAs should make particular efforts to seek the input of communities where controlled equipment is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs' regular interactions with the public through community forums, town halls, or meetings with the Chief or community outreach divisions.

equipment by both law enforcement and non-law enforcement personnel and the negative effects and consequences of misuse.

- d) **For LEAs Only - General Policing Standards** (including contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant funded controlled equipment):

On an annual basis, all LEA personnel who may use or authorize use of controlled equipment must be trained on LEAs' General Policing Standards including (1) Community Policing; (2) Constitutional Policing; and (3) Community Input and Impact Considerations. For additional information on these General Policing Standards see <https://www.bja.gov/programs/Controlled-Equipment-Standards.pdf>.

IV. After-Action Report Requirements Following a Significant Event

- a) The entity must collect and retain *Required Information* (see below) when a significant incident or event requires, or results in, the use of any controlled equipment purchased with DHS/FEMA grant funds. A significant incident or event includes:
- A demonstration or other public exercise of First Amendment rights or any other event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed;
 - When unlawful or inappropriate police actions are alleged and trigger a federal compliance review, and FEMA determines that controlled equipment was used in the law enforcement activity under review; and
 - Any law enforcement operation or action that involves (1) a violent encounter among civilians or between civilians and the police; and/or (2) a use-of-force that causes death or serious bodily injury.⁶
- b) Required Information to be collected and retained for after-action review (AAR):
- Identification of controlled equipment used (e.g., categories and number of units of controlled equipment used, make/model/serial number);
 - Description of the significant incident/event involving the controlled equipment;
 - Identification of personnel who used the equipment and, if possible, a list of those involved in the incident; and
 - Result of controlled equipment use (e.g., arrests, use-of-force, victim extraction, injuries).

V. Record Keeping Requirements

- a) **Documented Policies and Protocols Records:**

The entity must retain written policies and procedures that govern the (1) Appropriate use of controlled equipment; (2) Supervision of use of controlled equipment; (3) Effectiveness evaluation; (4) Auditing and accountability; and (5) Transparency and notice considerations.

⁶ Serious bodily injury, as defined by 18 U.S.C. § 1365(h), is the bodily injury which involves (a) a substantial risk of death, (b) extreme physical pain, (c) protracted and obvious disfigurement, or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty

Additionally, upon request, LEAs must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols, to DHS/FEMA.

b) Training Records:

The entity must retain comprehensive training records, either in the personnel file of the individual who was trained or by the recipient's training division or equivalent entity, for a period of at least three (3) years after training date, and must provide a copy of these records, upon request, to DHS/FEMA.

c) After-Action Review Records:

The entity must retain After-Action Review reports with the Required Information (IV.a.) following any significant incident report for a period of at least three (3) years and must provide a copy of these records, upon request, to DHS/FEMA. This information shall also be made available to the community served in accordance with applicable policies and protocols including considerations regarding the disclosure of sensitive information.

VI. Additional Requirements for SUAS

All requests to purchase SUAS with FEMA grant funding must also include the policies and procedures in place to safeguard individuals' privacy, civil rights, and civil liberties of the jurisdiction that will purchase, take title to, or otherwise use the SUAS equipment, see Presidential Memorandum: Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties, in Domestic Use of Unmanned Aircraft Systems, issued February 20, 2015.

VII. Regional Capability

If the controlled equipment will provide a regional or multi-jurisdictional capability, all entities in the regional sharing agreement must meet the aforementioned policy and protocol requirements, training requirements, after-action analysis report requirements, and record keeping requirements. Acquisition of controlled equipment – due to size, cost, scarcity, or other reason – for use in regional sharing arrangements, is strongly encouraged.

VIII. Disposition of Controlled Equipment

Prior to the disposition of the controlled equipment, recipients must request disposition instructions from FEMA, consistent with the terms of 2 C.F.R. Part 200 and the award agreement. Recipients must abide by all applicable federal, state, local, tribal, and territorial laws, regulations, and programmatic terms when disposing of controlled equipment.

IX. Transfer of Controlled Equipment

Controlled equipment must remain in the possession of the original FEMA grant recipient and may not be transferred without written permission from FEMA. FEMA reserves the right to allow for the transfer of controlled equipment to another FEMA recipient on a case-by-case basis. The use of controlled equipment under an MOU or other regional sharing agreement as listed under section VI above does not constitute a transfer of controlled equipment.

X. Additional Requirements

All grant recipients that are authorized to utilize federal funding to procure or acquire controlled equipment must comply with 2 C.F.R. Part 200 and the terms of the award agreement with

FEMA and the special conditions that are placed on the award by FEMA. The same terms and conditions with respect to the management, use, and disposition of the equipment apply to the receiving entity in instances when FEMA authorizes the transfer of controlled equipment from the recipient to another entity.

XI. Violations of Use of Controlled Equipment

FEMA may take appropriate action according to 2 C.F.R. Part 200 for violations of any federal statutes, regulations of the terms and conditions of the award related to controlled equipment (e.g., failure to adopt required protocols, unauthorized transfers).

For alleged violations of law involving the grant-funded controlled equipment, including civil rights laws, the matter will be referred for investigation to FEMA's Office of Civil Rights (OCR), DHS's Office of Civil Rights and Civil Liberties, other appropriate compliance office, or the U.S. Department of Justice. If the investigation results in a finding that the recipient violated a civil rights or other relevant statute, appropriate remedies for noncompliance will be taken against the recipient. The actions or suspension will last until FEMA determines that the violation has been corrected.

FEMA will continue to collaborate with federal agency partners to ensure that there is a consistent and reasonable approach to the restrictions placed on controlled equipment expenditures while continuing to support these investments when there is a justifiable need. Further, FEMA will continue to maintain an awareness of the evolving policy developments related to controlled equipment expenditures and keep grant recipients up to date on future developments.

Questions regarding this IB, whether the IB applies to a particular project, or guidance on controlled equipment expenditures may be directed to the appropriate FEMA GPD Program Analyst or the Centralized Scheduling and Information Desk at askesid@fema.gov or 1-800-368-6498.



FEMA

Grant Programs Directorate Information Bulletin
No. 407a
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MEMORANDUM FOR: All State Administrative Agency Heads
All State Administrative Agency Points of Contact
All Urban Area Security Initiative Points of Contact
All State Homeland Security Directors
All State Emergency Management Agency Directors
All Eligible Transit Agencies
All Private Sector Transportation Security Partners
All Public and Private Sector Port Security Partners
All Tribal Nation Points of Contact

FROM: Brian E. Kamole
Assistant Administrator for Grant Programs
Federal Emergency Management Agency

SUBJECT: Use of Grant Funds for Controlled Equipment: Update for
Fiscal Year 2017

The purpose of this Information Bulletin (IB) update is to provide grant applicants, recipients, and subrecipients with guidance regarding the requirements when applying for, or expending grant funds for, controlled equipment expenditures and using grant-funded controlled equipment. This IB, IB 407a is applicable to all grants awarded by the Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) beginning with Fiscal Year (FY) 2016. This update supersedes all previous versions of IB 407.

This IB was developed as part of the implementation of Executive Order (EO) 13688: Federal Support for Local Law Enforcement Equipment Acquisition, issued January 16, 2015, and the updated Recommendations Pursuant to Executive Order 13688 (updated for FY 2017 on October 1, 2016), which amended the *Prohibited Equipment List* and *Controlled Equipment List* and further defines certain requirements.

While EO 13688 speaks directly to Law Enforcement Agencies (LEAs), through this IB, FEMA will apply the same requirements and conditions to all controlled equipment regardless of the recipient's designation as, or affiliation with, law enforcement to ensure a consistent approach toward controlled equipment expenditures and use by all FEMA recipients.

Additionally, the Working Group provided enhanced criteria for Campus LEAs operating in Institutions of Higher Education (IHE). The updates put particular emphasis on using controlled

equipment in a way that does not inhibit the exercise of the First Amendment right of free speech or assembly, including public demonstrations, which are hallmarks of student life at IHEs. The requirements impacted are as follows:

- Civilian Governing Body's Review and Approval
- Detailed Justification
- Community Input and Impact Considerations
- General Policing Standards
- Training

The full IHE update is available in Appendix E of the 2017 Recommendations Report and at: <https://www.bja.gov/publications/EnhancedCriteriaforInstitutionsofHigherEducationApplicants.pdf>.

Ongoing Collaboration

FEMA will continue to collaborate with federal agency partners to ensure that there is a consistent and reasonable approach to the restrictions placed on controlled equipment expenditures while continuing to support these investments when there is a justifiable need. Further, FEMA will continue to maintain an awareness of the evolving policy developments related to controlled equipment expenditures and keep grant recipients up to date on future developments.

Equipment Lists

The *Prohibited Equipment List* identifies categories of equipment that recipients are prohibited from acquiring using federally-provided funds or via transfer from federal agencies, which includes:

- **Tracked Armored Vehicles:** Vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- **Weaponized Aircraft, Vessels, and Vehicles of Any Kind:** These items will be prohibited from purchase or transfer with weapons installed.
- **Firearms of .50-Caliber or Higher**
- **Ammunition of .50-Caliber or Higher**
- **Grenade Launchers:** Firearm or firearm accessory designed to launch small explosive projectiles. This does not include launchers specifically designed and built to launch less lethal projectiles. *October 2016 Update.*
- **Bayonets:** Large knives designed to be attached to the muzzle of a rifle/shotgun/long gun for the purposes of hand-to-hand combat.
- **Camouflage Uniforms:** Does not include woodland or desert patterns or solid color uniforms. Camouflage-patterned uniforms acquired through federal programs are authorized to be worn only in environments where they actually camouflage the wearer, and may not be worn in cities, towns, and other urban or populous areas. *October 2016 Update.*

The *Controlled Equipment List* identifies categories of equipment that have significant utility for state, local, tribal, territorial, and private sector grant recipients. Recipients may continue to acquire controlled equipment through federal assistance programs. However, because of the

nature of the equipment and the potential impact on communities, additional controls will be imposed on the acquisition, use, and transfer of this equipment. While several of the items below are not allowable expenses under DHS/FEMA preparedness grants¹, the full *Controlled Equipment List* includes:

- **Manned Aircraft, Fixed Wing:** Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift.
- **Manned Aircraft, Rotary Wing:** Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift.
- **Unmanned Aerial Vehicles:** A remotely piloted, powered aircraft without a crew aboard (including Small Unmanned Aerial Systems (SUAS)).
- **Armored Vehicles, Wheeled:** Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier.
- **Tactical Vehicles, Wheeled:** A vehicle purpose-built to operate on- and off-road in support of military operations, such as a HMMWV (“Humvee”), 2.5-ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached. This excludes commercially available vehicles not tactical in nature, such as pick-up trucks or Sport Utility Vehicles (SUV). *October 2016 Update.*
- **Command and Control Vehicles:** Any wheeled vehicle either purpose-built or modified to facilitate the operational control and direction of public safety units responding to an incident. Command and Control Vehicles are similar to a recreational vehicle and can accommodate multiple people at multiple workstations within the vehicle. This category is not intended for other types of vehicles that could serve as a command and control center, including SUVs. *October 2016 Update.*
- **Specialized Firearms and Ammunition Under .50 Caliber (excludes firearms and ammunition designed for regularly-assigned duties), and Less Lethal Launchers:** Weapons and corresponding ammunition for specialized operations or assignment. This includes launchers specifically designed and built to launch less lethal projectiles. This excludes weapons, such as service issued handguns, rifles, or shotguns, that are issued or approved by the agency to be used by all sworn officers/deputies during the course of regularly assigned duties. This definition clarifies that less lethal launchers are Controlled Equipment. Previously, it was unclear whether Less Lethal Launchers were prohibited under the “Grenade Launchers” category or entirely excluded from the Prohibited or Controlled Equipment Lists. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program). *October 2016 Update.*
- **Explosives and Pyrotechnics:** Includes “flash bangs” as well as explosive breaching tools often used by special operations units. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program).
- **Breaching Apparatus:** Tools designed to provide law enforcement rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (a battering ram connected to a vehicle or a propellant), ballistic (slugs), or explosive. This

¹ Recipients and sub-recipients should refer to the annual Notices of Funding Opportunity, the Authorized Equipment List, or contact their FEMA Program Analyst for information regarding the allowability of specific equipment categories

category does not include dual purpose tools such as a sledgehammer or bolt cutter. Note: FEMA does not control the purchase of battering rams by fire departments. *October 2016 Update.*

- **Riot/Crowd Control Batons (excluding service-issued telescopic or fixed-length straight batons):** Non-expandable baton of greater than service-issued types and are intended to protect its wielder during crowd control situations by providing distance from assailants. This includes all batons with advanced features such as tear gas discharge, electronic or “stun” capabilities. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program). *October 2016 Update.*
- **[Category Deleted]:** Following completion of Permanent Working Group’s annual review of the Prohibited and Controlled Equipment Lists in October 2016, the Riot Helmets category was removed from the Controlled Equipment List based on an evaluation and balancing of relevant factors such as officer safety, utility of equipment to law enforcement, building trust between law enforcement and the community, and the impact of misuse, overuse, and inappropriate use on the community.
- **Riot/Crowd Control Shields:** Shields intended to protect wielders from their head to their knees in crowd control situations. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. Riot shields may also be used as an offensive weapon to push opponents. (Note: despite its inclusion on the Government-wide *Controlled Equipment List*, equipment defined under this category is not an allowable expense under any FEMA preparedness grant program). *October 2016 Update.*

A side-by-side comparison of all changes made to the definitions on both the Prohibited and Controlled Equipment Lists is available on the Department of Justice’s website at <http://oip.gov/docs/AnnualEquipmentListReviewComparison.pdf>

Equipment Modifications

Grant recipients and sub-recipients may not modify equipment acquired using federal resources that would cause it to be considered prohibited equipment, or absent specific written approval from FEMA and adherence to all relevant requirements, controlled equipment.

I. Application Requirements for Controlled Equipment Expenditures

Any entity² that applies for FEMA grants for controlled equipment expenditures must complete FEMA Form (FF) 087-0-0-1 *Controlled Equipment Request Form* and submit it to the State Administrative Agency (SAA) or to FEMA if applying through a grant program through which applications are made directly to FEMA. The form may be submitted at the time of application for the award or can be submitted at any time during the award period of performance as long as it is prior to the acquisition of the controlled equipment.

² Entity refers to the recipient or subrecipient that will be the end user of the controlled equipment. *Recipient* - a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients. See also §200.69 No. 1-Federal entity. *Subrecipient* - a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program, but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

Using FF 087-0-0-1, the entity must include a clear and persuasive explanation demonstrating the need for the controlled equipment and the purpose that it will serve. The entity will be asked to supply information about the current inventory of controlled equipment acquired through federal programs, pending applications for controlled equipment, previous denials for controlled equipment, and any findings of violations of federal civil rights statutes or programmatic terms involving controlled equipment.

Additionally, using FF 087-0-0-1, the entity will certify that they have adopted or will adopt prior to acquiring controlled equipment the applicable policies and protocols that meet the training requirements and will adhere to the records keeping requirements and after-action report requirements as described below. The entity will also certify that it will abide by all applicable federal, state, local, and tribal laws, regulations, and programmatic terms and conditions.

Governing Body Approval

The requesting entity must provide evidence of approval or concurrence by the jurisdiction's governing body (e.g., City Council, County Council, Mayor) for the acquisition of the requested controlled equipment. Evidence of the governing body's approval or concurrence should be explicit. However, if the LEA can provide evidence that the governing body was given a reasonable opportunity to review the controlled equipment acquisition request but failed to affirmatively approve or disapprove of the request, such silence or inaction will constitute evidence of approval.

For LEA's where the chief executive is popularly elected (e.g., Sheriffs), the LEA must provide official written notice to – but are not required to obtain approval from – their civilian governing body at least 30 days in advance of any application to acquire controlled equipment from the Federal Government. This change takes into account the fact that popularly-elected heads of LEAs are directly accountable to their community-constituency.

For IHEs, explicit approval by the governing body of the IHE (e.g., Board of Trustees or Visitors, State Board of Regents) for the acquisition of the controlled equipment is required, the documentation of which must be included in the application. Silence (such as inclusion on consent calendar) or inaction by the governing body does not constitute approval.

II. Policy and Protocol Requirements

- a) The entity must have written policies and protocols that specifically govern the (1) appropriate use of controlled equipment; (2) supervision of use of controlled equipment; (3) effectiveness evaluation; (4) auditing and accountability; and (5) transparency and notice considerations as defined below:

- 1) Appropriate Use of Controlled Equipment:* Requesting organizations should examine scenarios in which controlled equipment will likely be deployed, the decision-making processes that will determine whether controlled equipment is used, and the potential that both use and misuse of controlled equipment could create fear and distrust in the community. Protocols should consider whether measures can be taken to mitigate that effect (e.g., keep armored vehicles at a staging area until needed) and any alternatives to the use of such equipment and tactics to minimize

negative effects on the community while preserving officer safety.
(Recommendations Pursuant to EO 13688 Updated, pg. 22)

- 2) ***Supervision of Use:*** The protocols must specify appropriate supervision of personnel operating or utilizing controlled equipment. Supervision must be tailored to the type of equipment being used and the nature of the engagement or operation during which the equipment will be used. Policies must describe when a supervisor of appropriate authority is required to be present and actively overseeing the equipment's use in the field. (Recommendations Pursuant to EO 13688 Updated, pg. 22)
- 3) ***Effectiveness Evaluation:*** The protocols must articulate that the requesting organization will regularly monitor and evaluate the effectiveness and value of controlled equipment to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. Requesting organizations should review after-action reports routinely and analyze any data on, for example, how often controlled equipment is used or whether controlled equipment is used more frequently in certain law enforcement operations or in particular locations or neighborhoods. (Recommendations Pursuant to EO 13688 Updated, pg. 22)
- 4) ***Auditing and Accountability:*** There must be strong auditing and accountability provisions in the protocols that state that the requesting organization's personnel will agree to and comply with and be held accountable if they do not adhere to agency, state, local, tribal, territorial, and federal policies associated with the use of controlled equipment. (Recommendations Pursuant to EO 13688 Updated, pg. 22)
- 5) ***Transparency and Notice Consideration:*** The protocols must articulate that the requesting organization will engage the community regarding acquisition of controlled equipment, policies governing its use, and review of significant incidents (see Recommendation 2.3 below), with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures. (Recommendations Pursuant to EO 13688 Updated, pg. 22)

b) **For LEAs Only³**

LEA recipients or subrecipients requesting controlled equipment must have written policies and protocols on (1) Community Policing; (2) Constitutional Policing; and (3) Community Input and Impact Considerations.⁴

- i. For IHEs, Community input and Impact Considerations must include Certification that campus LEA policies identify a mechanism that LEAs will engage members

³ LEAs include contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant funded controlled equipment

⁴ *Community Policing* is the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs and, in turn, enhances LEAs ability to investigate crimes and keep the peace. *Constitutional Policing* protocols emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies must include protocols on First Amendment, Fourth Amendment, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with federal and state civil rights laws. *Community Input and Impact* protocols must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs' actions, role in, and relationships with the community. Law enforcement exists to protect and serve the community, so it is axiomatic that the community should be aware of and have a say in how they are policed. LEAs should make particular efforts to seek the input of communities where controlled equipment is likely to be used so as to mitigate the effect that such use may have on

of the school community, including students and faculty. This includes how IHEs will provide members of the school community with information about controlled equipment, explanations from the IHE concerning the need for such equipment, as well as potential uses and benefits to the agency and the community. Information gathered from the community should be used to review trends related to the deployment of controlled equipment.

A Sample Community Policing Policy is available for download and use by grant recipients and sub recipients at <http://ojp.gov/PWG.htm>.

III. Training Requirements

The entity must provide or obtain necessary training regarding appropriate use of controlled equipment prior to the use of controlled equipment, including:

- a) **Technical Proficiency:**
All entity personnel who will use controlled equipment must be trained properly on, and have achieved technical proficiency in, the operation or utilization of the controlled equipment at issue prior to its use. The controlled equipment may be used for technical training and certification prior to deployment for official use.
- b) **Scenario-Based Training:**
To the extent possible, trainings related to controlled equipment should include scenario-based training. Personnel authorizing or directing the use of controlled equipment should have enhanced scenario-based training to examine, deliberate, and review the circumstances in which controlled equipment should or should not be used. To the extent possible, the LEA specifically should include scenario-based training that combines constitutional and community policing principles with equipment-specific training.
- c) **Training on Civil Rights and Liberties**
Annual, appropriate, and relevant training for grant recipient personnel on the 1st, 4th, and 14th Amendments is required. Training on how to protect the civil rights and civil liberties of those in the surrounding community where the controlled equipment will be used is vital to ensuring that the use of controlled equipment complies with constitutional standards for the protection of civil rights and civil liberties. Training objectives should define and explain relevant concepts and demonstrate the application of such concepts through equipment-based scenarios to show appropriate and proper use of controlled equipment by both law enforcement and non-law enforcement personnel and the negative effects and consequences of misuse.
- d) **For LEAs Only - General Policing Standards** (including contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant funded controlled equipment):

On an annual basis, all LEA personnel who may use or authorize use of controlled equipment must be trained on LEAs' General Policing Standards including (1)

public confidence in the police. This could be achieved through the LEAs' regular interactions with the public through community forums, town halls, or meetings with the Chief or community outreach divisions

Community Policing; (2) Constitutional Policing; and (3) Community Input and Impact Considerations. For additional information on these General Policing Standards see <https://www.hja.gov/programs/Controlled-Equipment-Standards.pdf>.

For purposes of this Recommendation, “annual” training – after an initial comprehensive session – may be accomplished through, for example, an in-service, presentations at roll call, or as part of other training refreshers.

IV. After-Action Report Requirements Following a Significant Event

- a) The entity must collect and retain *Required Information* (see below) when a significant incident or event requires, or results in, the use of any controlled equipment purchased with FY 2016 and later DHS/FEMA grant funds. This requirement does not apply to equipment purchased with FY 2015 funds and prior years, or to equipment purchased with non-federal funding.⁵

A significant incident or event includes:

- A demonstration or other public exercise of First Amendment rights or any other event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed;
- When unlawful or inappropriate police actions are alleged and trigger a federal compliance review, and when FEMA determines that controlled equipment was used in the law enforcement activity under review; and
- Any operation or action that involves (1) a violent encounter among civilians or between civilians and the grant recipient; and/or (2) a use-of-force that causes death or serious bodily injury.⁶

- b) Required Information to be collected and retained for after-action review (AAR):

- Identification of controlled equipment used (e.g., categories and number of units of controlled equipment used, make/model/serial number);
- Description of the significant incident/event involving the controlled equipment;
- Identification of personnel who used the equipment and, if possible, a list of those involved in the incident; and
- Result of controlled equipment use (e.g., arrests, use-of-force, victim extraction, injuries).

V. Record Keeping Requirements

- a) **Documented Policies and Protocols Records:**

The entity must retain written policies and procedures that govern the (1) Appropriate use of controlled equipment; (2) Supervision of use of controlled equipment; (3) Effectiveness evaluation; (4) Auditing and accountability; and (5) Transparency and notice considerations.

⁵ Following the annual review of the Prohibited and Controlled Equipment Lists by the Permanent Working Group in October 2016, this requirement was modified so that entities are now *only* required to collect and retain Required Information for controlled equipment acquired through federal programs on or after October 1, 2015. Previously, the data retention requirement was retroactive to equipment purchased prior to this date and also included equipment purchased with non-federal funding.

⁶ Serious bodily injury, as defined by 18 U.S.C. § 1365(h), is the bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Additionally, upon request, LEAs must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols, to DHS/FEMA.

b) Training Records:

The entity must retain comprehensive training records, either in the personnel file of the individual who was trained or by the recipient's training division or equivalent entity, for a period of at least three (3) years after training date, and must provide a copy of these records, upon request, to DHS/FEMA.

c) After-Action Review Records:

The entity must retain After-Action Review reports with the Required Information (IV.a.) following any significant incident report for a period of at least three (3) years and must provide a copy of these records, upon request, to DHS/FEMA. This information shall also be made available to the community served in accordance with applicable policies and protocols including considerations regarding the disclosure of sensitive information.

VI. Additional Requirements for UAS

All requests to purchase Unmanned Aerial Systems (UAS) with FEMA grant funding must also include the policies and procedures in place to safeguard individuals' privacy, civil rights, and civil liberties of the jurisdiction that will purchase, take title to, or otherwise use the UAS equipment, see Presidential Memorandum: Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties, in Domestic Use of Unmanned Aircraft Systems, issued February 20, 2015.

VII. Regional Capability

If the controlled equipment will provide a regional or multi-jurisdictional capability, all entities in the regional sharing agreement must meet the aforementioned policy and protocol requirements, training requirements, after-action analysis report requirements, and record keeping requirements. The acquiring entity is responsible for ensuring that a person/jurisdiction who uses its controlled equipment acquired through federal programs adheres to the entity's relevant policies or the regional sharing agreement, regardless of whether the user is employed by that entity. Ultimately, the responsibility of the use of controlled equipment rests with the entity that acquired it through a federal program, including in emergency and exigent circumstances.

Acquisition of controlled equipment – due to size, cost, scarcity, or other reason – for use in regional sharing arrangements, is strongly encouraged.

VIII. Disposal or Transfer of Controlled Equipment

Disposal

Prior to disposing of the controlled equipment, recipients must request disposition instructions from FEMA consistent with the terms of 2 C.F.R. Part 200 and the award agreement. Recipients must abide by all applicable federal, state, local, tribal, and territorial laws, regulations, and programmatic terms when disposing of controlled equipment.

Transfer

Controlled equipment must remain in the possession of the original FEMA grant recipient and may not be transferred without written permission from FEMA. FEMA reserves the right to allow for the transfer of controlled equipment to another FEMA recipient on a case-by-case basis. The use of controlled equipment under an MOU or other regional sharing agreement as listed under section VI above does not constitute a transfer of controlled equipment.

IX. Civil Rights Compliance

Entities requesting controlled equipment must disclose the following information with their application:

- 1) any finding by a Federal Court or a Federal Government agency, including an agency's civil rights office or the Civil Rights Division of the U.S. Department of Justice, that the entity has violated a federal civil rights statute, nondiscrimination provision of any federal program statute, or any other programmatic term or condition related to nondiscrimination during the past 3 years,
- 2) any remedial agreement entered into as a result of a civil rights investigation during the past 3 years, or
- 3) any admissions of liability made regarding violations of federal civil rights law in the entity's policing functions during the past 3 years. Entities must provide detailed information about the violation(s) and any efforts the entity has taken to cure the violation(s), and/or any information on remedial agreements.

FEMA Office of Equal Rights (FEMA OER) and DHS Office for Civil Rights and Civil Liberties (DHS CRCL) will review the information provided by the entity to evaluate the applicant's current compliance with civil rights requirements, and whether the applicant has taken steps to remedy civil rights violations such that DHS can be assured that the entity will administer its programs and activities in a nondiscriminatory manner. Information on the review process for disclosures of civil rights violations is detailed in Information Bulletin 414: Civil Rights Review Process for Controlled Equipment Requests.

X. Violations of Use of Controlled Equipment

FEMA may take appropriate action according to 2 C.F.R. Part 200 for violations of any federal statutes and regulations of the terms and conditions of the award related to controlled equipment (e.g., failure to adopt required protocols, unauthorized transfers).

For alleged violations of civil rights law involving the grant-funded controlled equipment, the matter will be referred for investigation to FEMA OER and DHS CRCL to determine appropriate next steps, which may include but is not limited to an investigation or compliance review. If, after advising the appropriate person or persons of a failure to comply, DHS determines that compliance cannot be secured by voluntary means, DHS may bring about compliance by the termination of or refusal to grant or to continue assistance or by any other means authorized by law, which may include but are not limited to referral to the Department of Justice for judicial action.

XI. Additional Requirements

All grant recipients that are authorized to utilize federal funding to procure or acquire controlled equipment must comply with 2 C.F.R. Part 200 and the terms of the award agreement with FEMA and the special conditions that are placed on the award by FEMA. The same terms and conditions with respect to the management, use, and disposition of the equipment apply to the

receiving entity in instances when FEMA authorizes the transfer of controlled equipment from the recipient to another entity.

Questions regarding this IB and whether the IB applies to a particular project, or guidance on controlled equipment expenditures may be directed to the appropriate FEMA Grant Programs Directorate Program Analyst or the Centralized Scheduling and Information Desk at askcsid@fema.gov or 1-800-368-6498.