

# **Law Enforcement State Homeland Security Program (LE SHSP)**

**Applications and Grant Agreement**  
**Due by November 16, 2018**



**FY 2018**  
**Regional Program Guidance and  
Application Package**

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## INTRODUCTION

The State Homeland Security Program (SHSP) is a core homeland security assistance program that provides funds to build capabilities at the state and local levels through planning, equipment, training, and exercise activities and to implement the goals and objectives included in the State Investment Justification and the State Homeland Security Strategy, and to fill gaps identified in Ohio's Threat. Funding continues to support the six mission areas of homeland security to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and align with the U.S. Department of Homeland Security's (DHS) National Priorities, National Preparedness System and the Core Capabilities, as they relate to terrorism prevention in Ohio. Amongst these preparedness tools, DHS has built a process that gives DHS, the State of Ohio, and its local jurisdictions a benchmark from which to determine:

How prepared we are now?

How prepared we need to be?

How we will prioritize each year to fulfill those capability gaps?

Federal Grant Guidance stipulates that a minimum of 25% of the total SHSP must be allocated to law enforcement use. The federal fiscal year (FY) 2018 Law Enforcement SHSP (LE SHSP) grant consists of 30% of the FY2018 overall Ohio SHSP award and provides funding for Planning, Equipment, Training, Exercises and limited Organizational costs focusing on providing resources to law enforcement and public safety communities (working with their private partners) to support critical terrorism prevention activities. Federal funding allocations are based, in part, on the effectiveness of state and local agencies to address unmet preparedness capabilities over time. Those needs are addressed in the State of Ohio Homeland Security Strategy, Threat and Hazard Identification and Risk Assessment (THIRA) State Preparedness Report (SPR), and the FY2018 HSGP Investment Justification.

The purpose of this package is to provide an overview of the FY2018 LE SHSP, as well as the grant guidance and application materials needed to apply for funding under the program. The package outlines both federal and state requirements for the application. The Ohio Emergency Management Agency (Ohio EMA) serves as the State Administering Agency (SAA) and is responsible for subsequent use of LE SHSP grant funds, but will continue to coordinate with Ohio Homeland Security (OHS) regarding program implementation.

## **SIGNIFICANT CHANGES to REGIONAL GUIDANCE**

- Sub-recipients should pay particular attention to procurement and the requirements of 2 CFR 200.318 -200.326. Within this section are socioeconomic requirements for solicitation of small and minority businesses, women's business enterprises, and labor surplus area firms. The contracting requirements at 2 C.F.R. 200.321 apply to the following procurement methods: micro-purchases, small purchase procedures, sealed bids, and competitive proposals.
- Effective June 20, 2018, the federal micro-purchase threshold increased from \$3,500 to \$10,000. Per 2 CFR 200 sub-recipients must follow the most stringent of federal, state, and local procurement policies. The federal micro-purchase threshold, as compared with the state purchasing requirements, continues to be more stringent. Please be sure to review your local policy as compared to the \$10,000 micro-purchase threshold, and ensure you are following the more stringent. With this change Ohio EMA will now require a copy of your local procurement policy be submitted with each micro-purchase cash request in order to demonstrate compliance with federal code.
- FEMA will review projects for feasibility and for the effectiveness at reducing the risks for which the project was designed. Also they will review the processes to ensure completion within the end of performance period. Please include in project detail: the scope of work, desired outcomes, summary of status of the planning and design accomplished to date, and project schedule.
- Any personnel funded by the FY2018 LE SHSP grant and working in the ILO Program must receive online Nationwide SAR Initiative (NSI) training. The training can be found at [https://nsi.ncirc.gov/training\\_online.aspx](https://nsi.ncirc.gov/training_online.aspx). A copy of the training certificate must be provided to Ohio EMA and Ohio Homeland Security.
- Reimbursement Requests must be submitted through the EGMS online tool no less than each quarter when expenses are incurred.
- All required forms for the FY2018 process are now located in the grants toolkit at [http://www.ema.ohio.gov/PreparednessGrants\\_HSGP.aspx](http://www.ema.ohio.gov/PreparednessGrants_HSGP.aspx). A checklist has been provided on page 59 to assist you in completing your application.

## **SIGNIFICANT CONTINUING ITEMS in REGIONAL GUIDANCE**

- Sub-Grantees will continue to be required to follow 2 CFR 200 requirements. Please review 2 CFR 200 in detail and contact Ohio EMA with any question or concerns.
- Sub-Grantees will be required to submit procurement documentation to include the "request for quote" along with the actual quotes or complete bid packages with all cash reimbursement requests for items over the micro-purchase threshold (collectively within a given sub-recipient's fiscal year). Any sole source (meaning only one bid or quote from a vendor) will need Ohio EMA pre-approval. "No quote" letters from a vendor are not considered as one of the quotes. Failure to comply with proper procurement or failure to receive pre-approval will result in loss of funds. *Sole Source must be pre-approved by Ohio EMA and will only be approved in rare circumstances after inadequate competition is properly documented through the open competitive process.*

- Sub-recipients that acquire equipment pursuant to 2 CFR 200.313 from any of the preparedness grant programs passed through the Ohio EMA are required to submit an annual inventory certification along with a current master inventory listing to the Ohio EMA Grants Branch no later than January 31 of each year for three years after the federal close of the grant in which qualifying equipment was purchased. Failure of the sub-recipient to submit the form timely with the certification form will result in suspension of any current grant funding until it is submitted.
- Ohio EMA's Electronic Grants Management System (EGMS) will continue to be the sole mechanism for application, approvals, management, and payment requests. Projects must be detailed to include purpose, gap to be filled, and how it prepares and prevents terrorism. All communication projects must clearly explain how it ties into the Statewide Communication Interoperable Plan (SCIP) and comply with SAFECOM Guidance on Emergency Communications Grants.
- Funds may not be used to support fusion center-related initiatives unless the fusion center is able to certify that privacy and civil rights/civil liberties (CR/CL) protections are in place that are determined to be at least as comprehensive as the *ISE Privacy Guidelines* by the ISE Privacy Guidelines Committee (PGC) within 6 months of the award date on the FY2018 award. If these protections have not been submitted for review and on file with the ISE PGC, LE SHSP grants funds may only be leveraged to support the development and/or completion of the fusion center's privacy protections requirements.
- In order for Ohio to meet the requirements of the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412), PRICE Act statewide, the state has elected to continue the adjustment of the personnel cap from 50% to 35% for LE SHSP sub-grantees. The cap is as follows:
  - **No more than 35% of the region's total LE SHSP award can be allocated toward personnel costs.** These costs include new employees, contractors, overtime, and backfill.
- Environmental and Historical Preservation (EHP) Review forms have been updated and must be completed and submitted with projects (as applicable per this guidance) for ALL fixed equipment, field training or exercises. Projects completed before an EHP approval notice, will not be reimbursed by the grant.
- Quarterly reports are required to be submitted. Reports are due January 30, April 30, July 30, and September 30.
- Food Costs (SHSP and LE SHSP) - With the exception of food costs associated with travel/per-diem or providing for a meal during a full-scale exercise, where participants do not have the ability to leave, food costs will not be approved.

# **PROGRAM SUMMARY**

## **I. HSGP Program Timeline**

The FY2018 HSGP was released by DHS for state applications in May 2017 with a one month turn-around time. The application included an FY2017 HSGP Investment Justification with reference to the Ohio Homeland Security Strategic Plan and Ohio's Threat and Hazard Identification and Risk Assessment (THIRA).

## **II. State Investment Strategy and Funding Priorities**

The LE SHSP is an important part of Ohio's larger, coordinated effort to strengthen homeland security preparedness and terrorism prevention. The LE SHSP will implement objectives addressed in Ohio's FY2018 Investment Justification. As the State Administering Agency, the Ohio EMA expects our State, local and private partners to be familiar with the state preparedness architecture and to incorporate elements of this architecture into their counter-terrorism planning, operations and capability-building efforts.

Successful regional collaboration allows for a multi-jurisdictional and multidisciplinary approach to building capabilities, spreading costs, and mitigating risk across geographic areas. As federal homeland security funds become more competitive, agencies should be diligently working with their neighboring and regional jurisdictions to better coordinate homeland security expenditures and planning efforts to avoid duplicative or inconsistent investments. Thus, agencies must determine what levels of preparedness they can realistically develop and sustain over the long-term without continued reliance on federal funding.

To accomplish this, agencies should already be using the Threat and Hazard Identification and Risk Assessment (THIRA), State Preparedness Report (SPR), and Core Capabilities List to review their current readiness. The Ohio Homeland Security Strategic Plan identifies the goals and objectives needed to address and meet Ohio's priorities.

Each Project must explain how the proposed activity will support the applicant's efforts to:

- Prevent a threatened or an actual act of terrorism;
- Prepare for all hazards and threats, while explaining the nexus to terrorism preparedness;
- Protect citizens, residents, visitors, and assets against the greatest threats and hazards, relating to acts of terrorism; and/or
- Respond quickly to save lives, protect property and the environment, and meet basic human needs in the aftermath of an act of terrorism or other catastrophic incident.

Based upon ongoing intelligence analysis, capability review and assessment, Ohio will continue to focus available grant funding on investments to build risk-based capabilities where a nexus to terrorism exists. Ohio's FY2018 regional LE SHSP terrorism prevention investment area is as follows:



### *Enhance Intelligence Fusion and Information Sharing Capabilities*

The focus for Ohio's FY2018 LE SHSP continues to be support for the maturation of the Information Sharing Environment (ISE), and specifically, the continued enhancement of State and Major Urban Area fusion centers to include support for implementation of the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI). These centers provide an important linkage between local, State, tribal, regional, and Federal partners, as well as private industry, and as part of a national information sharing capability must establish and maintain the capacity to receive threat-related information, understand its implications locally and further disseminate it to other local, State, tribal, and private sector entities. At the same time, State and Major Urban Area fusion centers need to be able to aggregate, blend, and analyze information gathered from local law enforcement and share that information with Federal authorities. Allowable expenditures of funding include support for equipment and consultation necessary to enable connection to information sharing systems such as the National Data Exchange (NDex), the Nationwide SAR Initiative, and supporting program areas.

Fusion centers are a critical component of our State's distributed homeland security and counterterrorism architecture. They provide grassroots intelligence and analytic capabilities within the state and local jurisdictions (<http://www.dhs.gov/state-and-major-urban-area-fusion-centers>). To that end, the LE SHSP will continue to support designated state and major Urban Area centers (<http://www.dhs.gov/fusion-center-locations-and-contact-information>) and the maturation of the Information Sharing Environment (ISE).

Participating in the Nationwide SAR Initiative (NSI) enables fusion centers to receive and analyze suspicious activity reporting from frontline public safety personnel, the private sector, and the public, and ensure the sharing of SAR with the Federal Bureau of Investigation's Joint Terrorism Task Forces (JTTF) for further investigation.

In support of this strategic vision, the U.S. DHS/FEMA requires designated State and Major Urban Area fusion centers to participate in an annual assessment of their achievement of Critical Operational Capabilities (COCs) and Enabling Capabilities (ECs).

Maturation of the Ohio Fusion Center Network continues to be a high priority for the FY 2018 LE SHSP.

Regions with fusion centers receiving LE SHSP grant funds will be evaluated based on compliance with the guidance and requirements for the National Network as set forth by DHS Intelligence and Analysis (I&A) through the annual Fusion Center Assessment Program.

- FY 2018 Fusion Center Grant requirements are listed at <http://www.dhs.gov/homeland-security-grant-program-hsgp>.
- DHS/FEMA approved analyst courses that meet the grant requirement are listed at <http://www.dhs.gov/fema-approved-intelligence-analyst-training-courses>.

Through the Performance Progress Report (SF-PPR), fusion centers will report on the achievement of capabilities and compliance with measurement requirements within the Maturation and Enhancement of State and Major Urban Area fusion centers priority through the annual Fusion Center Assessment Program managed by DHS I&A and reported to FEMA. (This process is subject to change by U.S. DHS I&A)

In support of these efforts, Ohio EMA and Homeland Security (OHS) are encouraging the Regional/Major Urban Area fusion centers to prioritize the allocation of LE SHSP grant funding to meet and maintain identified levels baseline capabilities, as outlined in the Global Justice Information Sharing Initiative's (Global) Baseline Capabilities for State and Major Urban Area Fusion Centers.

Additionally, fusion centers should assess their achievement of the baseline capabilities, so they may identify any resulting gaps. Requested LE SHSP grants funds should then be prioritized to target and address these gaps, and the results of this gap analysis should be included in grant applications for any fusion center funding. All efforts should be made to address gaps that are identified by taking advantage of the service deliveries made available through the joint US DHS and Department of Justice Fusion (DOJ) Process Technical Assistance Program. All fusion center employees are expected to complete the online 28 CFR Part 23 certification training made available through this program.

FY2018 LE SHSP grant funds may not be used to support fusion center-related initiatives unless the fusion center is able to certify that privacy and civil rights/civil liberties (CR/CL) protections are in place that are determined to be at least as comprehensive as the Information Sharing Environment (ISE) Privacy Guidelines by the ISE Privacy Guidelines Committee (PGC) within 6 months of the award date on this FY2018 award. If these protections have not been submitted for review and on file with the ISE PGC, LE SHSP grants funds may only be leveraged to support the development and/or completion of the fusion center's privacy protections requirements.

In order to effectively measure implementation of this priority, designated Major Urban Area fusion centers leveraging SHSP grant funds will be evaluated based upon compliance with the following set of requirements. These requirements are tracked for all primary or recognized fusion centers through the 2018 Fusion Center Assessment.

1. Successful completion of the annual Fusion Center Assessment Program managed by the DHS I&A. The Fusion Center Assessment Program evaluates each fusion center against the Critical Operational Capabilities (COC) and Enabling Capabilities (EC) and is comprised of the self-assessment questions, staffing, product, and cost assessment data tables, and validation (this process is subject to change by U.S. DHS I&A)
2. Maintain approved plans, policies, or SOPs and, per the Fusion Center Assessment Program, and, when applicable, demonstrate improvement in each of the four COCs
3. Develop and implement privacy, civil rights, and civil liberties (P/CRCL) protections, including:
  - a. Maintaining an approved P/CRCL policy that is determined to be at least as comprehensive as the ISE Privacy Guidelines
  - b. Ensuring the approved P/CRCL policy is publicly available
  - c. Conducting a compliance review of their P/CRCL policy in accordance with the Privacy Civil Rights and Civil Liberties Compliance Verification for the Intelligence Enterprise
  - d. Ensuring there is a process in place for addressing and adjudicating complaints alleging violations of P/CRCL
  - e. Ensuring all analytic products (as defined by the annual assessment process) are reviewed for P/CRCL issues prior to dissemination
  - f. Ensuring all staff receive annual training on the center's P/CRCL policies
  - g. Ensure all staff are trained on 28 CFR Part 23

- h. Ensure all Federally funded criminal intelligence databases comply with 28 CFR Part 23
4. All fusion center analytic personnel must meet designated competencies, as identified in the *Common Competencies for State, Local, and Tribal Intelligence Analysts*, that have been acquired through experience or approved training courses within six months of hire.
5. Successfully complete an exercise to evaluate the implementation of the COCs at least once every two years and address any corrective actions arising from the successfully completed exercises within the timeframe identified in the each exercise's After Action Report (AAR)
6. Post 100 percent (100%) of distributable analytic products (as defined by the annual assessment process) to the Homeland Security Information Network – Intelligence (HSIN-Intel) as well as any other applicable portals, such as Law Enforcement Enterprise Portal (LEEP), Regional Information Sharing Systems (RISS), their agency portal, etc.
7. Ensure all analytic products are tagged to Homeland Security Standing Information Needs (HSEC SINs).

State and local LE SHSP applications must align with terrorism prevention investment area of “Enhancing Intelligence Fusion and Information Sharing Capabilities” to be eligible for funding.

### **III. Eligible Applicants**

Only applicants who are designated representatives of a homeland security Regional Law Enforcement Advisory Group are eligible to apply for FY2018 LE SHSP funding.

The FY2018 LE SHSP funds will be distributed for projects that are regionally-based and developed by Regional Law Enforcement Advisory Groups. These groups are essential to the funding process, as they allow for collaborative planning and resource distribution throughout the state. The Advisory Groups are based in the eight (8) Homeland Security Planning Regions.

Membership for the Regional Law Enforcement Advisory Groups include, at minimum:

- Three (3) police chiefs – from within the largest and smallest counties and one mid-sized county
- Three (3) county sheriffs – representing the largest and smallest counties and one mid-sized county
- One (1) university law enforcement representative (where applicable)
- One (1) representative from a criminal justice services agency (where applicable)
- One (1) representative from a terrorism early warning group or fusion center (where applicable)

The Regional Law Enforcement Advisory Group will come to a consensus on the projects for which the region will be applying and will submit detailed descriptions of each project in EGMS. Included in the detailed project description will be the objective of the project and a statement of how the anticipated outputs will contribute toward achieving the priority's milestones.

All regional applicants must have a single organization, or sub-grantee, that will serve as the fiscal agent and assume overall responsibility for the grant. Eligible sub-grantees are units of local government or council of governments as defined below:

- A unit of local government has legislative autonomy, jurisdiction, and authority to act in certain circumstances. Units of government include a city, county, township, or village. If two or more jointly apply, they must designate one body to take the lead role and identify that agency's fiscal officer.

Regional proposals will be accepted on behalf of each Homeland Security region. All law enforcement agencies within a region receiving funds or other benefits through the LE SHSP must be in compliance with crime statistics reporting, using either the Ohio Incident-Based Reporting System or Uniform Crime Reporting, per Ohio Revised Code Section §5502.62(C)(6) and be NIMS Compliant.

Furthermore, agencies receiving funding should designate an individual to serve as the agency's point of contact to maintain a Communication and Information Management System (CIMS) account and check it regularly in order to relay timely information to appropriate partners.

A current listing of the Regional Law Enforcement Advisory Group's membership, programmatic agent, and fiscal agent must be submitted with the application in order to be eligible for funding. This information must be maintained with Ohio EMA throughout the grant period in order to continue to remain eligible for funding.

#### **IV. Regional Award Allocations**

As outlined in the table below, the FY2018 LE SHSP allocation has already been determined and set aside for each region. These award allocations were determined by a methodology based on population and critical infrastructure vulnerability and include a base award amount.

<b>LE SHSP FY2018 Local 80% Allocation</b>		
Allen County Sheriff's Office	Region 1	\$212,609.00
Cuyahoga County Public Safety and Justice Services	Region 2	\$294,576.00
Montgomery County EMA	Region 3	\$181,416.00
Franklin County Office of Homeland Security	Region 4	\$291,949.00
Summit County EMA	Region 5	\$302,124.00
Hamilton County Sheriff's Office	Region 6	\$258,788.00
Jackson County EMA	Region 7	\$116,559.00
Muskingum County Sheriff's Office	Region 8	\$109,339.00
	<b>TOTAL</b>	<b>\$1,767,360.00</b>

#### **V. NIMS Compliance**

Grantees and sub-recipients receiving HSGP funding are required to implement the National Incident Management System (NIMS). Grantees must utilize standardized resource management concepts such as typing, inventorying, organizing, and tracking resources that facilitates the identification, dispatch, deployment, and recovery of their resources. In order to receive funding, the Fiscal Agent is required to certify as part of their grant application that they are addressing and/or have met the most current NIMS requirements. Any agency benefiting from funds must be NIMS compliant. A

link to the mandatory NIMS Certification form, additional information about NIMS compliance, and resources for achieving compliance can be found at Ohio EMA NIMS website <http://www.ema.ohio.gov/NimsGuidance.aspx> or the NIMS Integration Center web page: <http://www.fema.gov/national-incident-management-system>. Evidence of compliance with these requirements must be made available, upon request, to Ohio EMA. Failure to do so may result in suspended or terminated funding.

## **VI. Investment Areas and Eligible Program Activities**

As mentioned in Section I, the FY2018 HSGP required Ohio to submit a State Investment Justification. The Investment Justification outlined the initiatives that will be accomplished and thus funded via the FY2018 LE SHSP. As per federal restrictions, no LE SHSP applications written outside of the scope identified in the State Investment Justification will be funded.

### **State Priorities:**

To be eligible for Ohio's FY2018 LE SHSP funding, regional project applications must directly align with the following seven (7) state terrorism prevention priorities outlined below. Please note that Priority #4 should remain of paramount concern as the grant awards totals continue to decrease. Please ensure that your region is aware of grant obligations, ongoing costs such as maintenance agreements and, as well as grant performance periods of each fiscal year.

- One: Information Sharing and Intelligence Fusion
- Two: Regional Terrorism Information Program (this priority includes the Intelligence Liaison Officers & Regional Information Coordinators)
- Three: Early Identification Technology
- Four: Project Planning, Training, Communications & Sustainability
- Five: Chemical, Biological, Radiological, Nuclear and Explosive (CBRNE) Equipment
- Six: Countering Violent Extremism
- Seven: Physical Protection Measures

Applicants must describe how their project relates to one or more priorities and directly aligns with an investment milestone summarized in the table below.

LE SHSP Priority	Priority Goal	Corresponding Investment Milestones
<u>One</u> : Information Sharing and Intelligence Fusion	Strengthen information sharing, collection, fusion, and analysis statewide by integrating existing electronic information sharing systems and providing for real-time submission of suspicious activity reports to regional terrorism early warning groups, regional fusion centers, and the Statewide Terrorism Analysis and Crime Center (STACC).	<ol style="list-style-type: none"> <li>1. Complete the strategy leveraging the existing plans of stakeholders.</li> <li>2. Complete or expand a NIEM-compliant electronic Suspicious Activity Reporting (SAR) system aligned with the national SAR effort, to include a statewide solution to report suspicious LE field contacts (FI contacts).</li> <li>3. Manage and Support a criminal intelligence database to integrate intelligence from agencies across Ohio in one location for statewide queries.</li> <li>4. Implement cyber and physical solutions to integrate existing information/intelligence systems.</li> <li>5. Purchase new (or expand existing) electronic platforms and equipment to expand state and local fusion centers.</li> <li>6. Integrate GIS, video and acoustic sensor platforms, including public and private surveillance systems, into fusion centers and EOCs within bounds of privacy policies.</li> <li>7. Fusion Center Personnel (planning, outreach and training) and Equipment Sustainment.</li> <li>8. Training, awareness and educational materials.</li> </ol>
<u>Two</u> : Regional Terrorism Information Program (this priority includes the Intelligence Liaison Officers & Regional Information Coordinators)	Develop a multi-disciplined regional terrorism information program to share information and intelligence horizontally and vertically.	<ol style="list-style-type: none"> <li>1. Provide continuing education for regional terrorism information programs to inform and deploy multi-disciplinary intelligence liaisons in every county.</li> <li>2. Terrorism information programs can include planning conferences and workshops, public outreach, and specific courses to incorporate terrorism awareness and SAR reporting.</li> </ol>
<u>Three</u> : Early Identification Technology	Develop statewide early identification capabilities that enable law enforcement officers and other criminal justice stakeholders to detect threats at the earliest possible stage.	<ol style="list-style-type: none"> <li>1. Deploy early identification equipment (biometric identification equipment, UAVs, robot surveillance equipment, license plate readers, etc.) and mobile data equipment to LE agencies and other criminal justice entities.</li> </ol>
<u>Four</u> : Project Planning, Training, Communications & Sustainability	Conduct project planning and training for coordination of programs, communications, and sustainability of projects.	<ol style="list-style-type: none"> <li>1. Regional Law Enforcement Advisory Groups will hold planning summits to ensure the continued development, <b>tactical interoperable communications</b>, &amp; sustainability of programs.</li> </ol>
<u>Five</u> : CBRNE Equipment	Build statewide risk-based CBRNE capabilities.	<ol style="list-style-type: none"> <li>1. Under FEMA guidelines, deploy CBRNE equipment for regional response teams.</li> <li>2. Complete CBRNE gap analysis and implement plan to coordinate/build-out the regional CBRNE capability.</li> </ol> <p><b><u>Please note that all equipment purchased under this priority must follow FEMA guidelines and must demonstrate a nexus to intelligence and information sharing (e.g. requesting agency participation in the ILO program, etc.)</u></b></p>

<u>Six:</u> Countering Violent Extremism	Provide training to law enforcement personnel on countering violent extremism.	1. Develop and promote terrorism awareness training, workshops, and conferences for law enforcement personnel, including dispatchers, on potential behaviors and indicators of violent extremism and how to appropriately analyze and report them; officer engagement and partnership with diverse communities; and intervention strategies.
<u>Seven:</u> Physical Protection Measures	Strengthen the capability to protect public and private entities to include the 16 Infrastructure Protection sectors, Key Resources, and target groups.	1. Deploy physical protection equipment (e.g. - barriers, fences, jersey walls, access control systems, etc.), to include transportation of allowable equipment (i.e. trailer). 2. Planning, training, support (to include operational overtime), and risk assessments.  <b>Physical protective measures should be mobile and include plans for regional caches.</b>

**All grant funded activities must be pre-approved through OH EMA.**

**As of July 11, 2018, FEMA grant guidance regarding cyber investments requires the state to fund all cyber projects through a separate state investment under the SHSP. Due to this guidance, the Cybersecurity priority will not be available under the LE SHSP. For FY2018, OHS, OEMA, and DAS-OIT will collaborate on cyber projects at the state level to strengthen Ohio's cybersecurity posture. We advise local agencies to take advantage of the free federal resources offered below to prepare for cyber projects in future grant cycles.**

### **Cyber Security Federal Resources**

1. DHS strongly recommends participation in its Cyber Hygiene Program:
  - a. The no-cost DHS Cyber Hygiene Program provides vulnerability scanning to help secure internet-facing systems from known vulnerabilities, detects insecure configurations, and encourages the adoption of security best practices.
  - b. DHS performs regular network and vulnerability scans and delivers a weekly report for your action.

Once initiated, this service is mostly automated and requires little direct interaction. After DHS receives the required paperwork for Cyber Hygiene, scans start within 72 hours and state, local, tribal, and territorial (SLTT) governments will begin receiving reports within two weeks. SLTT governments can sign up and obtain further details by contacting NCATS\_INFO@hq.dhs.gov.

2. DHS has several additional no-cost cybersecurity resources for SLTT governments. From cyber awareness and technical training to vulnerability assessments, there are resources available which do not require the expenditure of grant funds. To help SLTT government leaders get started in building a cybersecurity program, or enhance an existing program, DHS has created resources specifically designed to help leaders recognize and address their cybersecurity risks. Resources include discussion points for government leaders, steps to start evaluating a cybersecurity

program, and a list of hands-on resources available to SLTT governments. Many of these resources are described in further detail at <https://www.us-cert.gov/ccubedvp/slitt>.

3. Additional technical assistance available to SHSP and UASI recipients and sub-recipients includes the following:

### **General Resources**

- i. The DHS Office of Cybersecurity and Communications (CS&C), within the National Protection and Programs Directorate, enhances the security, resilience, and reliability of the Nation's cyber and communications infrastructure. CS&C serves as the hub for each state, territory, and urban area's cybersecurity inquiries and resources. States, territories, and urban areas should review these resources with their CIO and CISO to determine which resources will best serve their community's efforts to build and sustain a robust cybersecurity program.
- ii. The National Institute of Standards and Technology (NIST) Cybersecurity Framework (the Framework) provides standards, guidelines, and best practices to promote the protection of critical infrastructure. Grant recipients and sub-recipients can use the Framework to align cybersecurity investments to policy, communicate cybersecurity requirements to stakeholders, measure current cybersecurity posture through self-assessment, and analyze trade-offs between expenditure and risk. DHS resources aligned to the Framework Function Areas can be found at <https://www.us-cert.gov/ccubedvp/slitt>.
- iii. Funded by DHS, the Multi-State Information Sharing and Analysis Center (MS-ISAC) improves the overall cybersecurity posture of the Nation's SLTT governments through focused cyber threat prevention, protection, response, and recovery. It is a no-cost, membership-based community that includes 24/7 cybersecurity support, analysis and monitoring, and a central location for reporting threats and suspicious activities. For more on the MS-ISAC, visit <https://www.cisecurity.org/ms-isac/>.

### **Training Resources**

The Federal Virtual Training Environment (FedVTE) provides more than 800 hours of free online cybersecurity training to U.S. government (including SLTT government) employees, Federal contractors, and veterans. DHS manages the FedVTE program. It is administered through an interagency agreement with the U.S. Office of Personnel Management and supported by the Department of Defense's Defense Information Systems Agency through course development initiatives. Course proficiency ranges from beginner to advanced levels and have topics such as ethical hacking, risk management, and malware analysis. For more information on how to register for courses and obtain a log-in visit <https://fedvte.usalearning.gov/>.

All LE SHSP projects will be aligned with the following plans, assessments, and/or guidance:



- Ohio's FY2018 Investment Justification
- Ohio's Threat and Hazard Identification and Risk Assessment (THIRA)
- Ohio's State Preparedness Report (SPR)
- State of Ohio Homeland Security Strategic Plan
- National Preparedness System Core Capabilities
- National Incident Management System (NIMS)
- National Response Framework (NRF)

Recipients investing in emergency communications projects must describe how activities align to the Ohio Statewide Communications Interoperability Plan (SCIP). Recipients must coordinate with the Statewide Interoperability Coordinator (SWIC) and/or Statewide Interoperability Governing Body (SIGB) when developing an emergency communications investment prior to submission to ensure the project supports the statewide strategy to improve emergency communications and is compatible and interoperable with surrounding systems.

### *Multiple Purpose or Dual-Use of Funds*

For SHSP, many activities which support the achievement of target capabilities related to terrorism preparedness may simultaneously support enhanced preparedness for other hazards unrelated to acts of terrorism. However, all LE SHSP funded projects must assist recipients and sub-recipients in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.

### **Allowable Program Costs:**

The allowable costs under the FY2018 LE SHSP grant are divided into five program categories: Planning, Equipment, Training, Exercises, Administration, and limited Organizational. Activities implemented under the FY2018 LE SHSP must support terrorism preparedness by building or enhancing capabilities that relate to the prevention of and protection against terrorism in order to be considered eligible.

The following outlines the basic allowable costs under the FY2018 LE SHSP eligible program categories.

### **PLANNING:**

FY2018 LE SHSP funds may be used for a range of law enforcement terrorism prevention planning activities to include: information sharing and analysis, threat recognition, and terrorist interdiction.

### *Planning Activities*

There are five broad categories of allowable planning costs.

- Developing scenario plans that incorporate law enforcement prevention activities in the scenario
- Developing and implementing homeland security support programs and adopting DHS national initiatives
- Developing related terrorism prevention activities
- Developing and enhancing plans and protocols
- Developing or conducting assessments

### *Additional LE SHSP Allowable Planning Costs*

- Hiring of full- or part-time staff or contract/consultants to assist with planning activities (not for the purpose of hiring public safety personnel fulfilling traditional public safety duties)
- Conferences to facilitate planning activities
- Materials required to conduct planning activities (applicants must be specific about actual material being purchased, how they are going to be utilized, and how it ties to an investment milestone)
- Travel/per diem related to planning activities
- Overtime and backfill costs (in accordance with operational Cost Guidance)

Planning funds cannot be used for the purpose of hiring public safety (fire, EMS, law enforcement) personnel who will also fulfill traditional public safety duties. These funds cannot supplant existing budgets for these planning activities. In no case is dual compensation allowable. **No more than 35% of the region's total LE SHSP award can be allocated toward personnel costs. These costs include employees, contractors, overtime, and backfill.**

You will be required during a monitoring visit to validate the work was completed as per the budget. Failure to do so may result in forfeiture or repayment of grant funds. Further, all publications created with FY2018 LE SHSP funding shall prominently contain the following statement: "This document was prepared under a grant from the U.S. Department of Homeland Security (DHS). Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. DHS."

## **ORGANIZATIONAL:**

FY2018 LE SHSP funds may be used only for the following organizational activities.

### *Organizational activities include:*

- Structures and mechanisms for information sharing between the public and private sector
- Implementing models, programs, and workforce enhancement initiatives to address ideologically-inspired radicalization to violence in the homeland
- Tools, resources and activities that facilitate shared situational awareness between the public and private sectors
- Operational Support
- Responding to an increase in the threat level under the National Terrorism Advisory System (NTAS), or needs in resulting from a National Special Security Event
- Paying salaries and benefits for personnel to serve as qualified intelligence analysts

Intelligence analysts - Per the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412), SHSP funds may be used to hire new staff and/or contractor positions to serve as intelligence analysts to enable information/intelligence sharing capabilities, as well as support existing intelligence analysts previously covered by SHSP or Urban Area Security Initiative (UASI) funding. In order to be hired as an intelligence analyst, staff and/or contractor personnel must meet at least one of the following criteria:

- Successfully complete training to ensure baseline proficiency in intelligence analysis and production within six months of being hired; and/or,

- Previously served as an intelligence analyst for a minimum of two years either in a Federal intelligence agency, the military, or State and/or local law enforcement intelligence unit

As identified in the *Maturation and Enhancement of State and Major Urban Area Fusion Centers* priority, all fusion centers analytic personnel must demonstrate qualifications that meet or exceed competencies identified in the *Common Competencies for State, Local, and Tribal Intelligence Analysts*, which outlines the minimum categories of training needed for intelligence analysts. A certificate of completion of such training must be on file with the SAA and must be made available to FEMA Program Analysts upon request. In addition to these training requirements, fusion centers should also continue to mature their analytic capabilities by addressing shortfalls in analytic capability identified during the fusion center's annual assessment.

#### ***Overtime Costs:***

Overtime costs are allowable for personnel to participate in information, investigative, and intelligence sharing activities specifically related to homeland security and specifically requested by a Federal agency. Allowable costs are limited to overtime associated with federally requested participation in eligible fusion activities including anti-terrorism task forces, Joint Terrorism Task Forces (JTTFs), Area Maritime Security Committees (as required by the Maritime Transportation Security Act of 2002), DHS Border Enforcement Security Task Forces, and Integrated Border Enforcement Teams. Grant funding can only be used in proportion to the Federal man-hour estimate, and only after funding for these activities from other Federal sources (i.e., FBI JTTF payments to State and local agencies) has been exhausted. Under no circumstances should DHS/FEMA grant funding be used to pay for costs already supported by funding from another Federal source. These costs must be pre-approved through Ohio EMA and FEMA. See below.

#### ***Operational Overtime Costs:***

In support of efforts to enhance capabilities for detecting, deterring, disrupting, and preventing acts of terrorism, operational overtime costs are allowable for increased security measures at critical infrastructure sites. FY2018 LE SHSP funds for organizational costs may be used to support select operational expenses associated with increased security measures at critical infrastructure sites in the following authorized categories:

- Increased border security activities in coordination with Customs and Border Patrol
- Backfill and overtime expenses for staffing State or Major Urban Area fusion centers

**No more than 35% of the region's total LE SHSP award can be allocated toward personnel costs. These costs include employees, contractors, overtime, and backfill.**

FY 2018 LE SHSP funds may only be spent for operational overtime costs upon prior approval provided in writing (email or memorandum) from the Ohio EMA.

### **EQUIPMENT:**

FY2018 LE SHSP funds can be used for the acquisition of equipment from the eligible equipment categories listed in the FY2018 Authorized Equipment List (AEL) as they pertain to the State priorities. The AEL is only available online through the FEMA website at <https://www.fema.gov/authorized-equipment-list>. Please note that the AEL is routinely updated and thus must be consulted each time decisions are to be made on what equipment to be purchased.

The Regional Law Enforcement Advisory Committee must consult the AEL in order to develop its Project/Budget application.

The use of FEMA preparedness grant funds for maintenance contracts, warranties, repair or replacement costs, upgrades, and user fees are allowable, as described in FEMA Policy FP 205-402-125-1 (<http://www.fema.gov/media-library/assets/documents/32474>) under all active and future grant awards, unless otherwise noted. With the exception of basic maintenance plans purchased incidental to the original purchase of the equipment, the period covered by a maintenance or warranty plan, or any activities and expenditures must not exceed the period of performance of the specific grant to which the expenditure is charged. All costs that are incurred before or after the award's period of performance ends are not chargeable to the award and will be disallowed per 2 *CFR* 200.309 *Period of Performance*. Contracts, agreements, and extended warranty shall not be prepaid or prorated.

All equipment and services must be received, completed, and the request for reimbursement submitted by end of the grant performance period as listed on the sub-recipient's grant agreement.

Before any equipment item is added to the regional budget, the applicant must first confirm the item conforms to a specific AEL equipment item. Some items that regions wish to purchase may not exactly match a specific item in the AEL. In those cases, the region must consult Ohio EMA's Preparedness Grants Branch to determine whether or not the item meets the intent and restrictions of a given AEL equipment category/item. If Ohio EMA cannot concur or determine the eligibility of the item, they will consult with DHS to confirm eligibility of the item. The region must receive approval for the item in writing (email or memorandum) from Ohio EMA's Preparedness Grants Branch. This clarification must take place prior to any encumbrance or expenditure of funds for the item in question. EGMS is the official approval of expenditures.

The region will not consult DHS independently of Ohio EMA on an item's eligibility, which must be coordinated thru Ohio EMA's Preparedness Grants Branch. Equipment item decisions made by Ohio EMA and DHS are not subject to appeal.

#### ***CBRNE Detection Equipment:***

Any CBRNE detection equipment purchases must be made in direct support of a law enforcement agency and must demonstrate a nexus to intelligence and information sharing (e.g. Bomb Squad members being trained as ILOs, etc.) OHS will submit all regional CBRNE equipment requests to the appropriate statewide Technical Advisory Committee (TAC) (or comparable subject matter experts) for review and approval. This will help to support coordination with other regions and avoid duplication of efforts within the region. It is only after this process that equipment will be approved for purchase. **The region must receive approval for the item in writing (email or memorandum) from Ohio EMA's Preparedness Grants Branch. This approval must take place prior to any encumbrance or expenditure of funds for the item in question.** The Ohio LE SHSP grant is designed to build capabilities to prevent terrorism by sharing information and intelligence. It is focused on detecting terrorism before an act can be carried out. A limited amount of CBRNE response equipment may be allowed on a case-by-case basis and must be accompanied by a written justification that includes why the equipment cannot be purchased with another funding source.

#### **Controlled and Prohibited Equipment (LE-SHSP)**

In connection with *FEMA Grant Programs Directorate Information Bulletin No. 426*, Ohio EMA will accept applications for controlled equipment beginning with the FY 2018 grant cycle. Items appearing on the *Prohibited Equipment List* will still not be allowed to be purchased using federally-provided funds.

Purchase of these items comes with a great deal of responsibility on the part of the applicant as well as coordination with Ohio EMA. Applicants planning to apply for controlled equipment in the FY 2018 cycle should begin working immediately with their regional fiscal agent as well as Grants Staff at Ohio EMA.

Please read the following information carefully to determine your eligibility to make an application for controlled equipment.

## 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.
- **Bayonets:** Large knives designed to be attached to the muzzle of a rifle/shotgun/long gun for the purpose 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.

The *Controlled Equipment List* identifies categories of equipment that have significant utility for state, local, tribal, territorial, and private sector grant recipients. Due to the nature of this 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 grants (please see the *Authorized Equipment List*), 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—REQUIRES FEMA WAIVER FOR PURCHASE.
  - Justification must be submitted that addresses:
    - Need for aircraft and how requested equipment best meets needs as compared to other options;
    - How requested aircraft fits into State/Urban Area's integrated operational plans;

- Types of terrorism incident response and prevention equipment with which the requested aircraft will be outfitted;
  - How the aircraft will be used operationally and which response assets will be deployed using the requested aircraft;
  - How aircraft will be utilized on regular, non-emergency basis
- PLEASE NOTE: Licensing, registration fees, insurance, and all ongoing operational expenses will be the responsibility of the sub-recipient and will not be an allowable grant expense.
- **Manned Aircraft, Rotary Wing:** Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift—REQUIRES FEMA WAIVER FOR PURCHASE. *See requirements above for Fixed Wing.*
- **Unmanned Aerial Vehicles:** A remotely piloted, powered aircraft without a crew aboard (including Small Unmanned Aerial Systems SUAS).
  - *The justification process outlined for aircrafts above must be followed;*
  - *In addition, all requests to purchase this type of equipment must also include copies of policies and procedures in place to safeguard individuals' privacy, civil rights, and civil liberties in the jurisdiction that will take title to the equipment*
- **Armored Vehicles, Wheeled:** Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as 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 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).
- **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 assignments. 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: in spite of 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 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: in spite of 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: in spite of 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 Shield:** 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: in spite of 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**).

## **Equipment Modifications**

Grant recipients may not modify equipment acquired using federal resources in a way that would cause it to be considered prohibited equipment.

## **APPLICATION PROCESS**

An entity wishing to acquire controlled equipment must follow a rigorous application process. The project will still need to be worked through the regional process the same as any request for homeland security dollars. If the project receives appropriate approval/ranking in the region and is submitted to Ohio EMA, additional steps must be taken by the applicant.

The applicant must complete the FEMA Form (FF) 087-0-0-1 *Controlled Equipment Request Form* and submit to Ohio EMA as the State Administrative Agency (SAA). The form must be submitted and approved before the acquisition of controlled equipment. Using FF 087-0-0-1, the entity requesting the controlled equipment must include a clear and persuasive explanation demonstrating the need for the controlled equipment and the purpose it will serve. This is in addition to any justifications and required policies outlined above.

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.

Form FF 087-0-0-1 contains a section pertaining to approval by the jurisdiction's governing body (Commissioners, Executive, Mayor, etc.).

1. **For EMA applicants:** Evidence of the jurisdiction's approval for the acquisition of the requested controlled equipment. Evidence of the governing body's approval should be explicit.
2. **For LE applicants:** Same as above **except** the applicant can provide evidence that the governing body was given reasonable opportunity to review the controlled equipment request but failed to affirmatively approve or deny the request. Such inaction will constitute evidence of approval.

3. **For LE applicants with popularly elected chief executive (e.g. Sheriffs):** The agency must provide official written notice to their civilian governing body at least 30 days in advance of any application to acquire controlled equipment but are not required to receive that body's approval.

Failure to receive both SAA and FEMA approval before purchasing the controlled equipment will result in a denial of reimbursement. In addition, the approved FEMA Form (FF) 087-0-0-1 *Controlled Equipment Request Form* must be submitted with your request for reimbursement.

### Policy and Protocol Requirements

At the time of application, the entity must have written policies and protocols (**in addition to any outlined above**) in place and approved by the relevant governing body that specifically govern the 1) appropriate use of controlled equipment; 2) supervision of use of controlled equipment; 3) effectiveness evaluation; and 4) auditing and accountability:

- 1) **Appropriate Use of Controlled Equipment:** Requesting organizations should examine scenarios in which controlled equipment will likely be deployed, the decision-making process that will determine whether controlled equipment is used, and the potential that both use and misuse of controlled equipment could create fear and mistrust in the community. Protocols should consider whether measures can be taken to mitigate that effect and any alternatives to the use of such equipment and tactics to minimize negative effects on the community.
- 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.
- 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 operation or in particular locations or neighborhoods.
- 4) **Auditing and Accountability:** There must be strong auditing and accountability provisions in the protocols that state the requesting organization's personnel will agree to and comply with and be held accountable if they do not adhere to agency, state, local, and Federal policies associated with the use of controlled equipment.

Ohio EMA must have evidence of the policies being in place and approved, but will provide no guidance on the policies and protocols other than what is spelled out within this guidance. Evidence of approval should be submitted with the application packet. Applicants should consult their prosecutor or other appropriate legal authority to develop policies and protocols. Evidence of approval include, but are not limited to: resolutions, approved board meeting minutes, etc. Actual policies and protocols as well as evidence of approval by the appropriate governing body should be kept on file and updated appropriately in the event of a monitoring or audit of the applicant.

### **TRAINING REQUIREMENTS:**



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

**Technical Proficiency**-All entity personnel who will use controlled equipment must be trained properly on, and have achieved technical proficiency in, the operation of 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 or official use.

**Scenario-based training**-To the extent possible, trainings related to controlled equipment should include scenario-based training. Personnel authorized 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.

**Training on Civil Rights and Liberties**-Annual, appropriate, and relevant training for grant recipient personnel on the 1<sup>st</sup>, 4<sup>th</sup>, and 14<sup>th</sup> 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 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.

**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 the training date. A copy of these records must be provided, upon request, to DHS/FEMA and the Ohio Emergency Management Agency.

### **AFTER-ACTION REPORT REQUIREMENTS FOLLOWING A SIGNIFICANT EVENT**

For purposes of this grant, a significant event or incident includes:

- 1) 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;
- 2) 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
- 3) Any law enforcement operation or action that involves (a) a violent encounter among civilians or between civilians and the police; and/or (b) a use of force that causes death.

When a significant event occurs, the entity must collect and retain the following information:

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

Records of these after-action report must be kept for at least three (3) years following any significant event and must be provided upon request to DHS/FEMA and the Ohio Emergency Management Agency.

### **TRANSFER AND DISPOSITION OF CONTROLLED EQUIPMENT**

Controlled equipment must remain in the possession of the original FEMA grant recipient and may not be transferred without the written consent of Ohio EMA (in conjunction with FEMA). The use of controlled equipment under an MOU or other regional sharing agreement does not constitute a transfer of controlled equipment. Prior to the disposition of controlled equipment, the recipient must request that Ohio EMA and FEMA prepare disposition instructions. Disposition must occur in accordance with these instructions, 2 C.F.R. Part 200, and the award agreement. Recipients must also abide by all applicable federal, state, and local laws, regulations, and programmatic terms when disposing of controlled equipment.

### **VIOLATIONS OF USE OF CONTROLLED EQUIPMENT**

Ohio EMA, in conjunction with FEMA, may take appropriate action in accordance with 2 C.F.R. Part 200 for violations of any federal statutes or any regulations of the terms and conditions of the award related to controlled equipment. Ohio EMA will pursue any course of action FEMA deems necessary with regards to the controlled equipment including, but not limited to, requesting the return of the grant dollars from the recipient entity that paid for the controlled equipment.

### **TRAINING:**

Allowable training-related costs under this program include the establishment, support, conduct, and attendance of training courses pertinent to the capabilities outlined in the priorities.

Training conducted must also be in accordance with the FY2018 State Investment Justification. If you have questions regarding eligibility during the developmental stages of your training project proposal, please contact Ohio EMA Training staff (Lisa Jones, Training Officer, at 614-799-3824, David Nunley, Training & Exercise Supervisor, at 614-799-3677, or Susan Traylor, Training Officer, at 614-799-3666).

Allowable FY2018 SHSP training activities as they pertain to the State Investment Justification include:

- Costs to develop, deliver, and evaluate training, to include costs related to administering the training; planning, scheduling, facilities, materials, and supplies, reproduction of materials, and equipment
- Overtime and backfill costs associated with attendance at DHS sponsored and/or approved training courses and programs
- Costs associated with the certification and recertification of instructors
- Travel costs (e.g. airfare, mileage, per diem, hotel) for personnel attending approved training
- Hiring of full or part-time staff or contractors/consultants. (Full or part time staff may be hired to support training-related activities. Payment of salaries and fringe benefits must be in accordance with the policies of the local government.)

## **EXERCISE:**

All exercise activities supported by FY2018 LE SHSP must be US DHS Homeland Security Exercise and Evaluation Program (HSEEP) compliant and PRE-APPROVED by the Ohio EMA. Applicants must obtain approval in writing (email or memorandum) prior to encumbering any expenses. If you have questions regarding eligibility during the developmental stages of your exercise project proposal, please contact David Nunley, Training and Exercise Supervisor, at 614-799-3677 or via e-mail at [Dbnunley@dps.ohio.gov](mailto:Dbnunley@dps.ohio.gov).

### ***Allowable FY2018 SHSP exercise costs as they pertain to the State Investment Justification:***

- Funds used to design, develop, conduct and evaluate an exercise – Includes costs related to planning, meeting space and other meeting costs, facilitation costs, materials and supplies, travel, and documentation.
- Hiring of full- or part-time staff or contractors/consultants – Full- or part-time staff may be hired to support exercise-related activities. Such costs must be included within the funding allowed for program management personnel expenses, which must not exceed 35 percent of the total allocation. The applicant's formal written procurement policy or the Federal Acquisition Regulations (FAR) – whichever is more stringent – must be followed. In no case is dual compensation allowable. As previously noted, all consultants/contractors, including their support staff (e.g., exercise planners, controllers, facilitators) that are utilized to develop, conduct, or evaluate exercises must have completed the FEMA Exercise Design and Evaluation Course and the HSEEP Training Course, as well as have a strong working knowledge of the National Exercise Schedule (NEXS) and Corrective Action Program (CAP) systems. A scope of work and contract detailing the job duties and deliverables for all consultants/contractors must be provided and approved by the Ohio EMA Exercise Program Manager prior to finalizing any consultant/contractor agreements or contracts.
- Overtime and backfill costs – Overtime and backfill costs associated with the design, development, and conduct of exercises are allowable expenses. These costs are allowed only to the extent the payment for such services is in accordance with the policies of the State or unit(s) of local government and has the approval of the State or the awarding agency, whichever is applicable. In no case is dual compensation allowable.
- Travel - For expenses (e.g., airfare, mileage, per diem, and lodging) of employees on official business related to the planning and conduct of the exercise project(s).
- Supplies - Items that are expended or consumed during the course of the planning or conduct of the exercise project(s).
- Other items - Costs would include rental space/locations for exercise planning and conduct, rental of equipment, etc.

### ***Unauthorized exercise-related costs include:***

- Reimbursement for the maintenance and/or wear and tear costs of general use vehicles (e.g., construction vehicles) and emergency response apparatus (e.g., fire trucks, ambulances).
- Equipment that is purchased for permanent installation and/or use, beyond the scope of exercise conduct (e.g., electronic messaging signs).

The applicant must complete the mandatory electronic Training and Exercise Plan Workshop (TEPW) to coordinate and schedule their exercise activities and obtain approval in writing (email or memorandum) prior to encumbering any exercise related expenses or beginning any exercise planning activities. If you have questions regarding eligibility during the developmental stages of your exercise project proposal, please contact David Nunley, at 614-799-3677 or via e-mail [Dbnunley@dps.ohio.gov](mailto:Dbnunley@dps.ohio.gov).

### **ADMINISTRATION:**

These costs are specifically attributed to the management and administration of the FY2018 LE SHSP award. The grant recipient may budget up to, but not to exceed, 5% of its total FY2018 LE SHSP grant award to cover the recipient's administrative costs. Indirect costs are NOT considered administrative costs and are not permitted under the FY2018 SHSP grant. The allowable costs specifically include the following:

- Hiring of full-time or part-time staff or contractors to include, but not limited to, completing pre-grant application Budget Worksheets and Program Narrative; initiating, documenting, and tracking grant expenditures; inventorying equipment purchases; producing or completing required grant reports such as the Request for Cash, Encumbrance Report, and Bi-annual Strategy Implementation Report (BSIR);
- Overtime and backfill costs related to accomplishing allowed administrative tasks only to the extent the payment for such services is in accordance with the policies of the local unit(s) of government;
- Applicable Travel expenses to the extent the payment for such services is in accordance with the policies of the local unit(s) of government;
- Meeting related expenses (2 CFR 200) associated with Regional Law Enforcement Advisory Group to discuss local homeland strategy implementation and/or grant program management;
- Acquisition of authorized office equipment, including personal computers, laptop computers, printers, LCD projectors, and other equipment or software which is required to support the implementation of the FY2018 LE SHSP and *only when* no such equipment is currently available to accomplish the task;
- Recurring fees/charges associated with authorized office equipment, such as cell phones, faxes, etc. (this does not pertain to response equipment purchased under the eligible equipment program category); and
- Leasing and/or renting of office space for *newly hired personnel* who will administer the programs within FY2018 LE SHSP, or for personnel currently being paid with LE SHSP funds for grant administration and will now be responsible to additionally administer FY2018 LE SHSP funding.

### ***Personnel Costs:***

In order for Ohio to meet the requirements of the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412), all regional personnel and personnel-related costs are allowed up to 35 percent of FY2018 LE SHSP without time limitation placed on the period of time that such personnel can serve under the grant. These guidelines are not retroactive to previous fiscal years of HSGP funding (see Part IV.E.4 for additional information).

In general, the use of LE SHSP grant funding to pay for staff and/or contractor regular time or overtime/backfill is considered a personnel cost. Activities that are considered “personnel” and “personnel-related”, and therefore count against the personnel cap of 35 percent include, but are not limited to:

- Operational overtime
- Overtime/backfill to participate in approved training or exercise deliveries
- Overtime to participate in intelligence sharing activities
- Salaries and personnel costs of planners, equipment managers, exercise coordinators, and/or training coordinators
- Salaries and personnel costs under the M&A category
- Contractor costs associated with performing the above activities
- These activities are also subject to the funding and eligibility requirements detailed under the allowable cost categories. For further details, applicants should contact their Ohio EMA grants coordinator.

Hiring: Agencies/departments who will undertake approved and budgeted FY2018 LE SHSP grant program activities may hire new personnel to complete those tasks. This may also include personnel expenses incurred where new personnel are hired to fulfill functions and duties as a result of existing personnel being reassigned full-time to perform approved and budgeted FY2018 LE SHSP grant program activities. This does not include new personnel who are hired to fulfill any non-approved and locally budgeted LE SHSP program activities under any circumstances. In either case, the hiring of personnel will result in an increase of Full-Time Equivalent (FTE) positions, but cannot result in an increase in the number of FTE positions performing normal operational duties.

Overtime: These are expenses incurred by personnel who are performing approved and budgeted FY2018 LE SHSP grant program activities over and above their normal, scheduled work hours or work week as a direct result of their performance of approved activities specified in this guidance. Overtime associated with any other activity is not eligible. To avoid problems arising from overtime or its related payroll regulations, arrangements to pay these costs must first be coordinated between the Regional Law Enforcement Advisory Group and the agencies/departments who expect to incur qualifying overtime costs for their personnel who will incur planning, training, or administrative costs. Budgeting or paying for overtime costs will not result in an increase of full-time employees (FTEs). Overtime payments are allowed only to the extent that:

- The cost was pre-approved by the Advisory Group and is reflected on the region’s currently approved budget worksheet for planning, training, and/or administration costs;
- The compensation must be reasonable and consistent with that paid for similar work in other activities of local government;
- The payment for such services is in accordance with the policies of the local unit(s) of government; and
- The time and/or services used to accomplish a specific program activity are supported by adequate documentation of the costs.

Backfill: Backfill-related overtime. Also called “Overtime as Backfill,” these expenses are limited to overtime costs which result from personnel who are working overtime (as identified above) to perform the duties of other personnel who are temporarily assigned to FEMA-approved activities outside their core responsibilities. Neither overtime nor backfill expenses are the result of an increase of FTE employees.

Supplanting: Grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Applicants or grantees may be required to supply documentation certifying that a reduction in non-Federal or State resources occurred for reasons other than the receipt or expected receipt of LE SHSP funds.

Supplanting is defined as replacing a currently State and/or locally budgeted position with one or more full-time employees or contractors supported in whole or in part with Federal funds and is prohibited.

FY2018 LE SHSP grant funds may not be used to support the hiring of sworn public safety officers for the purposes of fulfilling traditional public safety duties or to supplant traditional public safety positions and responsibilities.

Positions created and/or funded through FY04-FY07 LETPP and FY08- FY17 LE SHSP grants may continue to be supported with FY2018 LE SHSP funding provided that the position is dedicated to the same or similar purposes allowable under applicable grant program guidance and has not been paid with local funds in the past.

#### **Unauthorized Program Expenditures:**

FY2018 LE SHSP funds may not be used for activities unrelated to the completion and implementation of the grant program. Further, equipment grant funds awarded under this program may not be used to reimburse costs for equipment procured prior to or after the award performance period.

#### ***Food Costs: (SHSP, LE SHSP, UASI)***

With the exception of food costs associated with travel/per-diem or providing for a meal during the conduct of a full-scale exercise where participants do not have the ability to leave, food costs will not be approved.

For equipment or office equipment-related costs, grant funds may not be used for:

- General use software (for basic word processing, graphics, spreadsheets, etc.)
- General use computers and related equipment (used for day-to-day office work not associated with homeland security)
- General use vehicles
- Registration, insurance, licensing, and other fees (not otherwise specifically allowed in the AEL)
- Weapons systems and ammunition
- Equipment not in accordance with the FY2018 SHSP Authorized Equipment List (AEL).

Grant funds may not supplant previously budgeted funds meant to accomplish the same tasks, activities, purchases, and/or expenses. Also, grant funds will not be used to pay for Indirect Costs.

Grant funds may not be used as a source of matching funds for other state or federal grant programs. Additionally, LE SHSP grant funds may not be transferred to cover costs within the other HSGP grant programs (non-LE SHSP, UASI, and Operation Stonegarden) or another separate state or federal grant program.

Grant funds may not be used to pay for federal employees or agency fees.

***Potential Future Cash-Match Requirements:***

Grantees are not required to engage in cash or in-kind match for FY2018 HSGP funds. However, there is the potential for future grant programs to be impacted by cash match requirements. Accordingly, grantees should anticipate and plan for future homeland security programs to potentially require cash or in-kind matches at cost-share levels comparable to other FEMA-administered grant programs.

## **GRANT APPLICATION INFORMATION**

### **I. Priorities and Projects**

Grant applications will consist of a series of Projects designed to directly support each of the LE SHSP priorities and the State's FY2018 Investment Justification Initiative for Enhancing Intelligence Fusion and Information Sharing Capabilities.

A project is a specific measurable accomplishment of a task such as the purchase of equipment or completion of training that fulfills a clearly defined capability gap/need. One project may contain the various elements of Planning, Equipment, Training, and Exercise as necessary to complete the project.

### **II. Application Form Summary**

Application Submission and Deadlines:

Grant Agreements/Assurances must be mailed or hand delivered to the Ohio EMA Grants Branch, 2855 W. Dublin-Granville Rd, Columbus, Ohio, 43235.

For FY 2018 LE SHSP, all grant applications and management beyond the Grant Agreement and Assurances will be conducted using Ohio's Electronic Grant Management System (EGMS). Sub-grantees may access the system and user guide by using the following web link <http://emaweb.ema.state.oh.us/oemagrants>. EGMS is the only official budget approval.

Applicants must complete and upload the following documents into EGMS. Documents can be downloaded here. Paste this link into your browser to watch a tutorial of how to complete an application in EGMS. <https://www.youtube.com/watch?v=YsKJRVX1kJs&feature=youtu.be>

- 1) Detailed Summary of Projects/Costs
- 2) EGMS User Information Form
- 3) Contact Information
- 4) Regional Law Enforcement Advisory Group Information
- 5) NIMS Compliance Information
- 6) EHP Review Form
- 7) Travel Pre-Approval Form

## Application Format:

Each applicant will be required to complete and submit the following documentation.

- Summary of Projects/Costs - The regional grant application will consist of one or more Projects designed to directly support the FY2018 State of Ohio Homeland Security Strategy, Ohio Threat and Hazard Identification and Risk Assessment, and LE SHSP priorities. This form acts first as a checklist to ensure all forms are complete and attached. It next lists all Projects being submitted for funding and their respective Total Costs. Finally, the region's authorized representative will sign and verify the Regional Law Enforcement Advisory Group did concur on the submission of the application. This must be received before budgets are approved within EGMS.
- EGMS User Information Form – This form allows a sub-grantee to permit additional accounts within EGMS. In addition to the Signatory Official, one additional contact can be permitted to upload information and/or documentation. Also, accounts can be added for the sole purpose of *working* on the grant application and/or cash requests – not permitted to submit.
- Regional Law Enforcement Advisory Group – This form identifies the current membership of the Advisory Group and must be maintained throughout the grant program period.
- Contact Information – For Ohio EMA to complete the official Grant Agreement, the region must identify the 3 individuals who will manage and address any state/federal questions on the status of projects or funding. The Programmatic Agent (or Project Manager) should be the person who has the day-to-day status of all project tasks and accomplishments. The Fiscal Agent (or Fiscal Officer) should be the representative who will receive the transfer of funds and can address the pay-in/out of funds transferred to the county. The Signatory Official is the person authorized to sign the Grant Agreement on behalf of the county.
- NIMS Compliance - In order to receive FY 2018 SHSP funding, the County is required to certify as part of their grant application that they are addressing and/or have met NIMS implementation requirements. Evidence of compliance with these requirements must be made available, upon request, to Ohio EMA. Failure to do so may result in suspended or terminated funding. Additional information about NIMS compliance and resources for achieving compliance can be found at Ohio EMA NIMS website <http://www.ema.ohio.gov/NimsGuidance.aspx> or the NIMS Integration Center web page, <http://www.fema.gov/national-incident-management-system>.
- EHP Review Form (as applicable) - Please contact your respective Grants Coordinator to determine if one of more of your projects require an EHP Review Form. (see *Points of Contact* on page 33 of this package).
- Travel Pre-Approval Form (as applicable) - This form is used to submit for pre-approval of travel using Planning, Training, and Administration funds. This form is required for all travel to be reimbursed for expenses. This form should be submitted as early in the process as possible to ensure prompt approval and reimbursement.

Note: The approval of the travel does not constitute approval of all costs incurred during the travel. Travelers must obtain signed approval from Ohio EMA to ensure costs are eligible for reimbursement.

## III. Grant Application Processing

No expenses should be incurred until the local budget is approved in EGMS.



## **IV. Grant Performance Period**

The end of the performance period for the FY2018 LE SHSP is March 30, 2021. All equipment must be received and installed as well as the final cash draw-downs must be submitted by the end of the performance period. No funds may be spent on activities or costs that occur outside of the defined grant performance period.

Any FY2018 LE SHSP funds not properly spent within the performance period will be de-obligated by Ohio EMA for re-obligation to other eligible grant recipients. There will be no extensions to the grant performance period without clear extenuating circumstances.

## **V. Grant Termination**

Ohio EMA may suspend or terminate funding under this grant, in whole or in part, or other measures may be imposed for any of the following reasons:

- Failing to comply with the requirements or statutory objectives of federal law
- Failing to make satisfactory progress toward the goals or objectives set forth in this application
- Failing to follow grant agreement requirements or the respective grant guidance
- Failing to submit required reports
- Filing a false certification in this application or other report or document

Before suspending or terminating funding, Ohio EMA will provide the Advisory Group reasonable notice of its intent to impose any measure and will make efforts to resolve the problem informally.

## **VI. Federal Grant Guidance and Financial Requirements**

Federal FY2018 HSGP grant guidance applies and supports the management of FY2018 LE SHSP funds and can be found at <http://www.fema.gov/grants>. Applicable sections of federal guidance should be consulted and understood by the region prior to submitting its application. Failure to adhere to guidance and its general conditions can result in suspended or terminated grant awards as well as the repayment of funds.

In the management of the FY2018 LE SHSP funds, the grant recipient will comply with the guidance outlined here within as well as the federal grant guidance. When state and federal grant guidance conflicts, the state guidance will take precedence unless otherwise stated here within. Clarifications shall be directed to and resolved by the Ohio EMA Preparedness Grants Branch.

Sub-grantees will be required to submit proper procurement documentation and “Proof of Cost” with all cash reimbursement requests. Failure to comply with proper procurement will result in loss of funds. If you have any questions, please contact your Grant Specialist.

Applicants shall comply with all applicable laws, regulations and program guidance. A nonexclusive list of regulations commonly applicable to DHS grants are listed below, including the guidance:

- Sub-grantees should pay particular attention to procurement and the requirements of 2 CFR 200
- In accordance with the requirements of 2 CFR 200, Ohio is requiring sub-grantees to obtain pre-approval on purchases or other procurements exceeding \$100,000.
- Ohio EMA's Electronic Grants Management System will be the sole mechanism for management and payment of the FY2018 HSGP grant programs.
- Environmental and Historical Preservation (EHP) Review forms have been updated and must be completed and submitted with applications (as applicable per this guidance).
- Quarterly reporting will be required for all FY2018 HSGP sub-grants.
- Sub-grantee training will be required for successful grant applicants.

#### *Grant Fund CFDA:*

The CFDA number for the FY2018 LE SHSP is 97.067, as part of the overall FY2018 HSGP.

#### *Technology Requirements:*

##### National Information Exchange Model (NIEM)

All grantees are required to use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language (XML) for all grant funds used to develop, procure, or implement homeland security information exchanges, including systems and databases. Further information about the required use of NIEM specifications and guidelines is available at <http://www.niem.gov>.

#### *Geospatial*

Geospatial technologies capture, store, analyze, transmit, and/or display location-based information (i.e., information that can be linked to a latitude and longitude). Grantees are encouraged to align any geospatial activities with the guidance available on the FEMA website at <http://www.fema.gov/grants>.

#### *28 CFR Part 23*

Any information technology system funded or supported by these funds is required to comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if this regulation is determined to be applicable.

#### *Freedom of Information:*

DHS recognizes that much of the information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information is subject to requests made pursuant to the Freedom of Information Act, 5 U.S.C. §552, all determinations concerning the release of information of this nature are made on a case-by-case basis and may likely fall within one or more of the available exemptions under the Act.

Information provided under the Project Descriptions is considered to be a security record and thus is not public record as per Ohio Revised Code §149.433. The other application forms and information submitted with this grant application is not and is considered public record. The region should consult their respective legal offices for more information on the applicability of ORC §149.433.

### ***Protected Critical Infrastructure Information (PCII)***

The PCII Program, established pursuant to the *Critical Infrastructure Information Act of 2002* (Public Law 107-296) (CII Act), created a new framework, which enables State and local jurisdictions and members of the private sector to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act also provides statutory protection for voluntarily shared CII from public disclosure and civil litigation. If validated as PCII, these documents can only be shared with authorized users who agree to safeguard the information. OHS encourages all grantees to participate in the PCII program. For more information please contact Andrew Stefanik at 614-752-5560.

### ***Compliance with Federal Laws and Regulations:***

#### **Civil Rights**

Grantees are required to comply with Federal civil rights laws and regulations as a condition for receipt of Federal funds. Specifically the grantee is required to comply with the following:

- Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq.
- Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794
- Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq.
- The Age Discrimination Act of 1975, as amended, 20 U.S.C. 6101 et. seq.

#### **Energy Conservation**

None of the funds made available shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act (42 USC 8251 et. Seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby). None of the funds made available shall be used in contravention of section 303 of the Energy Policy Act of 1992 (42 USC13212).

### ***Environmental and Historic Preservation (EHP) Compliance***

LE SHSP funded activities must comply with various Federal laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898). The grantee shall provide any information requested by Ohio EMA to ensure compliance with applicable Federal EHP requirements. Any project with the potential to impact EHP resources cannot be initiated until a Federal review has been completed.

## **Post Award Requirements**

### ***Issuance of Grant Agreement***

A grant agreement will be generated and sent to the sub-grantee along with any special conditions. This grant agreement must be mailed with original signature to Ohio EMA within 60 days. Any costs incurred prior to issuance of the executed grant agreement with assurances and official EGMS budget approval may not be reimbursed.

### ***Grant Performance Period***

The performance period for the FY2018 HSGP sub-grants can be found on the grant agreement for each sub-grantees' specific award. Note that all costs must be incurred within the period of performance to include receipt and installation of all equipment. No funds may be spent on activities or costs that occur outside of the defined grant performance period. Extensions to the grant

performance period listed on the sub-grantee's grant agreement is highly unlikely so sub-grantees should plan accordingly.

### *Standards for Financial Management*

Sub-grantees are required by 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to have in place an accounting system that maintains records which adequately identify the source and application of funds provided for grant funded projects. The accounting system must include information pertaining to sub-grant awards, obligations, un-obligated balances, assets, liabilities, outlays or expenditures and income. Ohio EMA requirements for sub-grantee accounting include the ability to track expenditures by grant program and by federal fiscal of the award (i.e. FY2009 CCP, FY2010 CCP, etc.).

### *Source Documentation*

2 CFR Part 200 also requires that accounting records be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and sub-grant award documents, etc. As such, Ohio EMA requires that sub-grantees have source documentation available prior to requesting cash reimbursement. Proper documentation for select items is as follows:

#### Travel costs

- Copy of the government unit travel policy
- Receipts/documentation as required by travel policy
- Justification and/or approval from government entity for overage in per diem rates, etc.

#### Personnel costs

- Time and Effort documentation with detailed activity reports reflecting allowable work signed by employee and supervisor

#### Contract costs

- Copy of draft contract for eligibility review prior to contract award
- Procurement documentation, copy of awarded contract for grant file
- Deliverables listed in contract
- Terms of payment outlined in contract
- For contracts to an individual, a signature of the "contractor" is required.
- Invoice (personnel service contracts require signature of contractor)

#### Equipment costs

- Complete Procurement Documentation to include "request for quote", quotes, and complete bid package.
- Current Contract which includes service period
- Documentation that equipment is received on site and installed as necessary

#### Meeting costs

- Agenda/Course Description – should include time and dates
- Attendance roster
- Invoices

### *Changes*

Per 2 CFR Part 200, sub-grantees must obtain the prior approval of the awarding agency (Ohio EMA) in any case where a change is to be made to the scope of the project, regardless of budget impact. Ohio EMA will require all sub-grantees to request a budget modification and approval, to include EHP approval, through EGMS prior to costs being incurred for the item(s) to be changed. Costs incurred prior to appropriate actions being taken to modify and approve the budget may result in costs being denied for reimbursement. Budget modifications will be reviewed promptly by Ohio EMA

Preparedness Grants Staff with an expectation that properly documented and submitted budget modifications are approved within seven to ten business days of submission.

### *Procurement*

The procurement process is one of, if not the most, scrutinized aspect of the federal grant programs. The emphasis on how procurements are made is based from the 2 CFR200 requirements that “all procurement transactions be conducted in a manner providing full and open competition with the standards of this section (§200.319)”. Additionally, sub-grantees must ensure that they meet the procurement requirements of the Ohio Revised Code and local procurement regulations. All sub-grantees are strongly urged to seek out their procurement department/individual to seek guidance on implementing the grant requirements into the procurement of any grant funded item or service. In accordance with this requirement, sub-grantees will be required to document actions that demonstrate compliance with the “full and open” regulation. 2 CFR 200 (§200.320) offers the following guidance in an effort to help sub-grantees navigate the requirements of procurement:

The non-Federal entity must use one of the following methods of procurement:

- a. Micro-purchases – purchases that do not exceed \$3,500; to the extent possible, non-Federal entity must distribute these purchases equitably among qualified suppliers; micro-purchases may be awarded without soliciting quotes if the price is considered reasonable and the local policy allows for this
- b. Procurement by small purchase – price or rate quotations must be obtained from an adequate number of sources (3 quotes) if the cost is more than the Simple Acquisition Threshold and the local policy does not establish a different, lower amount. “non-quotes” or “refusal to quote” from vendors will not be accepted.
- c. Procurement by sealed bid (formal advertising) – Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price; consult 2 CFR 200 §200.320(c)(1) as well as local policy to determine what conditions make a sealed bid feasible
- d. Procurement by competitive proposals – generally used when conditions are not appropriate for the use of sealed bids; consult 2 CFR 200 §320(d) and local policy to determine the requirements that apply if this type of procurement method is used
- e. Procurement by noncompetitive proposals - Will **not** be approved except in RARE circumstances when it is extremely well documented and only due to inadequate competition. Should you only receive one bid or quote you will need to contact the Preparedness Grants Branch. Any procurement without 3 quotes or bids must have a pre-approval by Ohio EMA.

Sub-grantees should note that the following situations are considered to be restrictive of competition and should be avoided (2 CFR 200 §200.319):

- Placing unreasonable requirements on firms in order for them to qualify to do business,
- Requiring unnecessary experience and excessive bonding,
- Noncompetitive pricing practices between firms or between affiliated companies,
- Noncompetitive awards to consultants that are on retainer contracts,
- Organizational conflicts of interest,
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
- Any arbitrary action in the procurement process.

Sub-recipients must follow all local, state, and federal requirements, whichever is strictest.

Sub-grantees will maintain records sufficient to detail the significant history of any procurement. These records will include, but are not necessarily limited to the following: local procurement policy, rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Sub-grantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. Request for quotes is also a part of the procurement procedures and must be submitted with procurement documentation when requesting reimbursement and filed.

### **Socioeconomic Contracting Requirements**

This section lists the requirements of 2 CFR 200.321 with regard to contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. While documentation on compliance with this standard will not be required prior to reimbursement, it **MUST** be in your grant files and available for a monitoring visit by Ohio EMA and FEMA as well as subsequent audits. Sub-grantees can use the resources of the Small Business Administration (SBA) to create a list of women and minority owned businesses that they can contact for solicitation. FEMA has created several tools to assist non-Federal entities with meeting the above-requirements. For further information, visit <https://www.fema.gov/procurement-disaster-assistance-team> and view documents under the Other Resources tab.

Keep in mind that each subgrantee must meet its own documented procurement procedures that reflect State and local laws and regulations, provided that the procurements conform to applicable Federal laws and standards established in 2 C.F.R. §§ 200.318 – 200.326.

- For example, if we assume that a city has a Minority and Woman-Owned Business Department, and it requires all of its departments to use the resources available through this department when it procures goods and services, then the city must not only meet this local procurement requirement, but also use the services of the SBA.
- The key for subgrantees is to document in grant files that steps have been taken to meet each of the six requirements of this section. When a subgrantee determines that one of the requirements is infeasible or unnecessary, such as establishing a delivery schedule that encourages participation by small and minority businesses, it needs to document its determination and the facts in the file. This documentation will show that it affirmatively attempted to meet each of the six requirements.

**IMPORTANT NOTE:** The socioeconomic contracting requirements at 2 C.F.R. 200.321 apply to the following procurement methods: micro-purchases, small purchase procedures, sealed bids, and competitive proposals. Per FEMA legal counsel, "It is possible to follow the requirements, taking into consideration that some have qualitative language ("when economically feasible," "where the requirements permit")."

***"2 CFR 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.***

- a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.*



**b) Affirmative steps must include:**

- 1) *Placing qualified small and minority businesses and women's business enterprises on solicitation lists;*
- 2) *Assuring that small and minority businesses, and women's business enterprises are solicited **whenever they are potential sources**;*
- 3) *Dividing total requirements, **when economically feasible**, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;*
- 4) *Establishing delivery schedules, **where the requirement permits**, which encourage participation by small and minority businesses, and women's business enterprises;*
- 5) *Using the services and assistance, **as appropriate**, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and*
- 6) *Requiring the prime contractor, **if subcontracts are to be let**, to take the affirmative steps listed in paragraphs (1) through (5) of this section."*

***Equipment and Supplies Requirements***

Utilization of HSGP funds for equipment purchases requires that sub-grantees maintain specific documentation on each item through its useful life until final disposition occurs. Per 2 CFR 200, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

- Property records must be maintained that include (2 CFR 200 §200.313(d) Management requirements):
  - A description of the property
  - A serial number or other identification number
  - The source of property
  - Who holds title
  - The acquisition date, and cost of the property
  - Percentage of Federal participation in the cost of the property
  - The location, use and condition of the property
  - Any ultimate disposition data including the date of disposal and sale price of the property
- A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
- Adequate maintenance procedures must be developed to keep the property in good condition.
- If the sub-grantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

When the equipment is no longer needed for the original project and/or has outlasted its useful life, 2 CFR 200 §200.313(e) prescribes the following requirements for final disposition:

- Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
- Except in limited circumstances, items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency (FEMA through Ohio EMA) shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

- The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the fair market value of the property.
- In cases where a grantee or sub-grantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or sub-grantee to take excess and disposition actions.

Supplies as defined as tangible personal property other than “equipment” for used in this guidance have a disposition requirement when the residual value of the combined unused inventory exceeds \$5,000. In cases where this may occur, the awarding agency is entitled to its share of the value of the remaining inventory.

### ***Sub-Granting***

No sub-grantee receiving FY2018 HSGP funding may sub-grant funding to another entity.

### ***Single Audit Requirements***

Sub-grantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507); 31 U.S.C. 503, 1111; Executive Order 8248; Executive Order 11541; and 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.” The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Sub-grantees must ensure that funds received and expended under this grant program are coordinated with the county’s fiscal office (treasurer, auditor, etc.)

### ***Reporting Requirements***

Upon official award, applicants acknowledge they will have to agree to complete quarterly reports to the Ohio EMA; and also agree to update the Bi-annual Strategy Implementation Report (BSIR) on the federal Grants Reporting Tool (GRT), due as available from DHS-FEMA and coordinated by Ohio EMA each year until the grant concludes, and then to complete one final BSIR within 120 days of the federal grant closure date. Further information on quarterly and bi-annual reporting will be provided with issuance of the official grant agreement.

## **Payment**

### ***Reimbursement Requests***

The reimbursement request process for the FY2018 HSGP programs will be executed solely through the EGMS system. In order to be processed, Ohio EMA will require that reimbursements include documentation noting that services have been completed (contract, personnel, etc.) and/or that equipment has been received on site and invoiced. To be reimbursed, costs must be eligible and proper back-up documentation must be submitted through the EGMS.

### ***Standards for Review***

The reimbursement review process includes an initial review for completeness, determination of eligibility and data entry of the cash request for tracking/monitoring. This review is conducted by the Preparedness Grants Program Specialist and focuses on accuracy of requests, prior approval of costs in the budget and ensuring complete documentation accompanies the request. Cash requests that are properly executed by the sub-grantee will be processed within 10 business days or less.



If a request is not complete, this includes but is not limited to the following items: lack of proper documentation, costs not included on the approved budget, no prior EHP approval, etc. the request will be rejected to the sub-grantee for revision. Sub-grantees are encouraged to utilize their Program Specialist for technical assistance in filling out the cash request and compiling documentation to support the cash request prior to submission in an attempt to expedite the approval process.

### ***Payment***

Upon approval by the Preparedness Grants Branch, the sub-grantees' funds will be requested for payment from Ohio EMA's fiscal unit. The payment process entails requesting money from the federal entity, receiving funds at the state level, vouchering the funds and the dispatching of an EFT to the sub-grantee. While this process relies heavily on external stakeholders, Ohio EMA will work to ensure the quickest processing of sub-grantee payments.

## **Enforcement, Termination and After the Grant Requirements**

Ohio EMA is required to monitor the Sub-grantee's compliance with the Federal statutes, regulations, State law and terms and conditions of the sub award as codified in 2 CFR 200.331. Each sub-recipient will have a monitoring visit yearly to review equipment and monitoring compliance. To continue to receive funding, corrective action will be required on any non-compliant issues. If Ohio EMA becomes aware of an area of non-compliance it will inform the Sub-grantee through a Notice of Non-Compliance. The Sub-grantee may be given steps to remedy the area(s) of non-compliance, or if the non-compliance cannot be remedied then Ohio EMA will take action against the sub-grantee congruent to 2 CFR 200.338-339. Ohio EMA can impose any of the following actions for noncompliance: temporary withholding of funding, disallowing costs and/or reimbursements, wholly or partially suspend an award of funds, initiate suspension or department proceedings, withholding further funding or program participation, and any other remedy that is legally available. Below is an outline of the monitoring process the Sub-grantee is agreeing to follow:

1. Notice of Non-Compliance: The Ohio EMA Grants Administrator will send electronic notice of Non-Compliance to the sub-grantee. The Notice of Non-Compliance will inform the sub-grantee of the following:
  - A. The area(s) of non-compliance.
  - B. Either (1) the steps required of the Sub-grantee to come into compliance and the date by which the Sub-grantee must demonstrate compliance and the agency action if compliance is not met; or (2) Ohio EMA's action against the Sub-grantee if Ohio EMA determines non-compliance cannot be remedied.
  - C. The method for requesting review of compliance steps or agency action.
2. Review Sub-grantees submission of compliance: In the event the Sub-grantee submits compliance documentation, Ohio EMA Grants Administrator will review the Sub-grantee's written submission and determine if there is full compliance. If the sub-grantee has not met full compliance, Ohio EMA will take the agency action, through a Notice of Action, the Sub-grantee received notice of in the Notice of Non-Compliance.
3. Method for Requesting Review: Sub-grantee will have thirty (30) days from the date of the Notice of Action to request reconsideration with the Executive Director. The Sub-grantee must send the request in writing and should include any additional information or

documentation within the 30 day period for the Executive Director to consider. The Executive Director will make a decision in writing within sixty (60) days of receipt of the request for reconsideration. However, if the Executive Director needs additional time she will notify sub-grantee of the extended time frame. The decision of the Executive Director is final. The Sub-grantee is not entitled to any further reviews within Ohio EMA, or pursuant to any federal or state regulation, code, or procedure.

## **Availability of Public Records**

Ohio's public records law generally requires disclosure of information. Ohio Revised Code Section 149.43 sets forth the requirements, along with the exceptions for disclosure. Specifically, Section 149.433 allows some security information to be exempt from disclosure.

Applicants are encouraged to consult state and local laws and regulations and discuss these requirements with their legal counsel. Grantees should be familiar with the regulations governing protected critical infrastructure information (6 C.F.R. Part 29) and sensitive security information (49 C.F.R. Part 1520), as these designations may provide additional protection to certain classes of homeland security information.

## **POINTS of CONTACT**

For Grant Fiscal and Administrative needs, contact:

- Dan Green, Grants Specialist  
614-799-3820, [dpgreen@dps.ohio.gov](mailto:dpgreen@dps.ohio.gov)
- Rudi Blaser, Grants Specialist  
614-799-3825, [rblaser@dps.ohio.gov](mailto:rblaser@dps.ohio.gov)
- Tim Manns, Grants Specialist  
614-799-6624, [trmanns@dps.ohio.gov](mailto:trmanns@dps.ohio.gov)

For Grant Programmatic needs, contact:

- Mary Tyler, Regional Coordination Unit Manager /LE SHSP Coordinator  
614-644-3895, [mptyler@dps.ohio.gov](mailto:mptyler@dps.ohio.gov)

For State Homeland Security Strategic Plan and Other Planning inquiries, contact

- Janille Stearmer, Planning and Policy Manager  
614-728-9669, [jsstearmer@dps.ohio.gov](mailto:jsstearmer@dps.ohio.gov)

For Exercise and Training Program Supervisor contact:

- David Nunley, Training & Exercise Supervisor  
614-799-3677, [dbnunley@dps.ohio.gov](mailto:dbnunley@dps.ohio.gov)
- Lisa Jones, Training Officer  
614-799-3824, [ljones@dps.ohio.gov](mailto:ljones@dps.ohio.gov)

For Grant Management inquiries, contact:

- Margo Schramm, Interim Grants Branch Chief  
614-799-3843, [mlschramm@dps.ohio.gov](mailto:mlschramm@dps.ohio.gov)

## **Appendix A: Terms and Conditions of the Grant**

Ohio EMA, as the recipient of this grant is required to advise all sub-grantees of the HSGP program of the requirements imposed upon them by Federal statute, executive orders and regulations.

Freedom of Information Act (FOIA). Information submitted in the course of applying for funding under this program or provided in the course of an entity's grant management activities which is under Federal control is subject to the Freedom of Information Act (FOIA), 5 U.S.C. §552. The applicant is also encouraged to consult its own State and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application, needs assessment and strategic planning process. Note that some information, though not considered classified, may be protected from release or in how it is released. It is important to understand those laws and regulations that fall into an alternate category of Sensitive But Unclassified (SBU) information.

- Sensitive But Unclassified (SBU). SBU is a designation of information in the United States Federal government that, though unclassified, often requires strict controls over its distribution. SBU is a broad category of information that includes material covered by such designations as For Official Use Only (FOUO), Law Enforcement Sensitive (LES), Sensitive Homeland Security Information, Security Sensitive Information (SSI), Protected Critical Infrastructure Information (PCII), etc. Some categories of SBU information have authority in statute or regulation (e.g. SSI, CII) while others, including FOUO, do not.
- Sensitive Security Information (SSI). Information submitted in the course of applying for funding or reporting under certain programs or provided in the course of an entity's grant management activities under those programs which is under Federal control is subject to protection under SSI, and must be properly identified and marked. Sensitive Security Information (SSI) is a control designation used by the Department of Homeland Security related to protecting information related to transportation security. It is applied to information about security programs, vulnerability and threat assessments, screening processes, technical specifications of certain screening equipment and objects used to test screening equipment, and equipment used for communicating security information relating to air, land, or maritime transportation. The applicable information is spelled out in greater detail in 49 CFR Part §1520.7.
- Protected Critical Infrastructure Information (PCII). The PCII Program, established pursuant to the Critical Infrastructure Act of 2002 (Public Law 107-296) (CII Act), created a framework which enables members of the private sector, States, local jurisdictions, and Tribal nations to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act provides statutory protection from public disclosure and civil litigation for CII that is validated as PCII. When validated as PCII, the information can only be shared with government employees who complete the training requirement, who have homeland security duties, and a need to know. PCII accreditation is a formal recognition that the covered government entity has the capacity and capability to receive and store PCII appropriately. DHS encourages all States, local jurisdictions, and Tribal nations to pursue PCII accreditation to cover their government agencies. Accreditation activities include signing a memorandum of agreement (MOA) with DHS, appointing a PCII Officer and developing a standard operating procedure for handling PCII. For additional information about PCII or the accreditation process, please contact the DHS PCII Program Office at [pcii-info@dhs.gov](mailto:pcii-info@dhs.gov).

- Chemical-terrorism Vulnerability Information (CVI). DHS issues a Manual to provide guidance on how to identify, handle and safeguard information developed by private and public entities under Section 550 of Public Law 109-295 and its implementing regulations, the Chemical Facility Anti-Terrorism Standards (CFATS), 6 CFR Part §27. Pursuant to CFATS. This information is known as Chemical-terrorism Vulnerability Information, or CVI, is relevant for anyone authorized to possess or receive CVI (including chemical facility officers, employees, representatives and contractors, and Federal, State, local and Tribal government employees and contractors), as well as anyone who obtains what they reasonably should know is CVI. [http://www.dhs.gov/xlibrary/assets/chemsec\\_cvi\\_proceduresmanual.pdf](http://www.dhs.gov/xlibrary/assets/chemsec_cvi_proceduresmanual.pdf)

- Sensitive Personally Identifiable Information (Sensitive PII). Certain personally identifiable information, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual and needs to be carefully managed. Social Security number or alien number (A-number), for example, requires stricter handling guidelines because of the increased risk to an individual if compromised. A key part of the DHS mission to protect the homeland is to minimize our impact on individual privacy. In this regard DHS has developed a Handbook for Safeguarding Sensitive PII, which can be found at [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_guide\\_sprii\\_handbook.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_guide_sprii_handbook.pdf). As required by OMB M-07-16, these rules also apply to DHS licensees, certificate holders, and grantees that handle or collect PII, including Sensitive PII, for or on behalf of DHS.

Civil Rights Act of 1964. All recipients of financial assistance will comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 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.

Civil Rights Act of 1968. All recipients of financial assistance will 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 (42 U.S.C. §3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR 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 CFR Part §100.201).

Title IX of the Education Amendments of 1972 (Equal Opportunity in Education Act). All recipients of financial assistance will comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides 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. These regulations are codified at 44 CFR Part §19.

Age Discrimination Act of 1975. All recipients of financial assistance will comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Americans with Disabilities Act of 1990. All recipients of financial assistance will 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. §§12101–12213).

Limited English Proficiency (Civil Rights Act of 1964, Title VI). All recipients of financial assistance will comply with the requirements of Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, recipients must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding LEP obligations, go to <http://www.lep.gov>.

Lobbying Prohibitions. None of the funds provided under an 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 concerning the award or renewal of any Federal contract, grant, loan, cooperative agreement. These lobbying prohibitions can be found at 31 U.S.C. §1352.

Drug-Free Workplace Regulations. All recipients of financial assistance will comply with the requirements of the Drug-Free Workplace Act of 1988 (412 U.S.C. §701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at 44 CFR Part §17.

Debarment and Suspension. Executive Orders 12549 and 12689 provide protection from fraud, waste, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government. The recipient must certify that they are not debarred or suspended from receiving Federal assistance. For additional information, see 2 CFR Part §3000.

Federal Debt Status. The recipient may not be delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll or other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129, also refer to SF-424, item number 17.)

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. §2225a, the recipient agrees to 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, 15 U.S.C. §2225.

Rehabilitation Act of 1973. All recipients of financial assistance will comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, as amended, which provides that no otherwise qualified handicapped individual 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. These requirements pertain to the provision of benefits or services as well as to employment.

For additional detailed information, please refer to the following:

FEMA Office of Disability Integration and Coordination. <http://www.fema.gov/office-disability-integration-and-coordination>

Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters. [http://www.fema.gov/pdf/about/odic/fnss\\_guidance.pdf](http://www.fema.gov/pdf/about/odic/fnss_guidance.pdf)

Guide to Emergency Preparedness and Disaster Recovery.

<https://www.disability.gov/resource/disability-govs-guide-emergency-preparedness-disaster-recovery/>

ADA Best Practices. <http://www.ada.gov/pcatoolkit/toolkitmain.htm>

National Environmental Policy Act (NEPA) of 1969. All recipients of financial assistance will comply with the requirements of the NEPA, as amended, 42 U.S.C. §4331 et seq., which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the component and awarding office) to be reviewed and evaluated before final action on the application.

Equipment Marking. Awardees may consider marking equipment in the following manner, "Purchased with funds provided by the U.S. Department of Homeland Security," in order to facilitate their own audit processes, as well as Federal audits and monitoring visits, which may result from receiving Federal funding. Equipment maintenance requirements are outlined in 44 CFR Part §13.32.

Disadvantaged Business Requirement. Applicants are advised that, to the extent that recipients of a grant use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

National Preparedness Reporting Compliance. The Government Performance and Results Act of 1993 (Public Law 103-62) (GPRA) requires that the Department collect and report performance information on all programs. For grant programs, the prioritized Investments and their associated milestones provide an important tool for assessing grant performance and complying with these national preparedness reporting requirements. FEMA will work with grantees to develop tools and processes to support this requirement. FEMA anticipates using this information to inform future-year grant program funding decisions. Award recipients must agree to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within their grant agreement. This includes any assessments, audits, or investigations conducted by DHS, the Office of the Inspector General, or the U.S. Government Accountability Office (GAO).

Animal Welfare Act of 1966. All recipients of financial assistance will comply with the requirements of the Animal Welfare Act, as amended (7 U.S.C. §2131 et seq.), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals.

Clean Air Act of 1970 and Clean Water Act of 1977. All recipients of financial assistance will comply with the requirements of 42 U.S.C. §7401 et seq. and Executive Order 11738, which provides for the protection and enhancement of the quality of the Nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.

Protection of Human Subjects. All recipients of financial assistance will comply with the requirements of the Federal regulations at 45 CFR Part §46, which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. For purposes of 45 CFR Part §46, research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part §46.

National Flood Insurance Act of 1968. All recipients of financial assistance will comply with the requirements of Section 1306(c) of the National Flood Insurance Act, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44 CFR Part §63.

Flood Disaster Protection Act of 1973. All recipients of financial assistance will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. §4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

Coastal Wetlands Planning, Protection, and Restoration Act of 1990. All recipients of financial assistance will comply with the requirements of Executive Order 11990, which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part §9.



USA Patriot Act of 2001. All recipients of financial assistance will comply with the 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. §§175–175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The Act also establishes restrictions on access to specified materials. —Restricted persons, as defined by the Act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

Trafficking Victims Protection Act of 2000. All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. §7104), located at 2 CFR Part §175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a sub-grantee —  
Engages in severe forms of trafficking in persons during the period of time that the award is in effect; Procures a commercial sex act during the period of time that the award is in effect; or Uses forced labor in the performance of the award or sub-awards under the award. Full text of the award term is provided at 2 CFR §175.15.

Fly America Act of 1974. All recipients of financial assistance will comply with the requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. §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. §40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Activities Conducted Abroad. All recipients of financial assistance will comply with the requirements 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. All recipients of financial assistance will comply with requirements to acknowledge 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.

Copyright. All recipients of financial assistance will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for government purposes in all such copyrighted works. The recipient shall affix the applicable copyright notices of 17 U.S.C. §401 or 402 and an acknowledgement of government sponsorship (including award number) to any work first produced under an award.

Use of DHS Seal, Logo, and Flags. All recipients of financial assistance must obtain DHS' approval 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.

DHS Specific Acknowledgements and Assurances. All recipients of financial assistance must acknowledge and agree—and require any sub-grantees, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

- Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
- 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 grant 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.
- Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
- If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
- In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.
- The United States has the right to seek judicial enforcement of these obligations.

#### Prohibition on Using Federal Funds

The recipient understands and agrees that it cannot use any Federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.

#### State Policy Requirements Affecting Grant Programs

The following Ohio Department of Public Safety policies are included as required by the policy.



**Ohio Department of Public Safety**  
**Policy Number : DPS-501.40**

**ADDRESSING CIVIL RIGHTS COMPLAINTS FROM CLIENTS OF  
THE DEPARTMENT OF PUBLIC SAFETY**

Date of Revision : **8/30/2011**  
Priority Review : **All Employees ; All Supervisors**  
Distribution : **All ODPS Divisions**

**Summary of Revisions**

New policy to ensure compliance with Title VI of the Civil Rights Act of 1964 and other federal laws and regulations prohibiting discrimination.

**Purpose**

To provide guidelines and procedures that allow the Ohio Department of Public Safety (ODPS) to process and forward complaints alleging discrimination from clients, customers, program participants, or consumers of ODPS or ODPS grant recipients.

**Policy**

**A. STATEMENT OF POLICY**

1. All individuals have the right to participate in programs and activities operated by ODPS and ODPS grant recipients regardless of race, color, national origin, sex, religion, disability, and age. ODPS will make every effort to ensure ODPS and its grant recipients comply with Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the DOJ regulations on the Equal Treatment for Faith-Based Organizations.

2. **RETALIATION**

- a. Persons who believe they have been discriminated against on the basis of their membership in a protected class (race, color, religion, sex, national origin, disability, age, ancestry, or military status) shall not be retaliated against in terms and conditions of employment or services for exercising their right to file a discrimination complaint or inquiry.
- b. No person who participates in the investigation of a complaint, or is a witness in an investigation, or brings attention to a person in authority, of an alleged discrimination shall be retaliated against.

**B. DEFINITIONS**

1. **Discrimination:** To make a distinction, show bias towards, or be prejudicial against, a person or thing on the basis of the group, class, or category to which the person or thing belongs, rather than according to actual merit.
2. **Civil Rights Complaint Coordinator:** Person designated by ODPS who is responsible for receiving and acknowledging discrimination complaints and forwarding them to the U.S. Department of Justice (DOJ), Office of Justice Programs, Office for Civil Rights (OCR); the Ohio Civil Rights Commission

(OCRC), or other appropriate agency for review of the complaint to determine if a violation was committed. The ODPS EEO Manager shall be the designated Civil Rights Complaint Coordinator.

3. **Grant Recipient:** An agency or organization that receives funding from a division within ODPS, whether it is federal pass-through funding or a state grant. ODPS divisions that provide grants to agencies and organizations include, but are not limited to, the Office of Criminal Justice Services (OCJS), Ohio Emergency Management Agency (EMA) and Ohio Homeland Security (OHS).
4. **Retaliation:** Occurs when adverse action is taken against an individual in a protected class because he or she engaged in protected activity.
5. **Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d):** Prohibits an individual from being excluded from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart C).
6. **Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3789d(c)(1)):** Prohibits recipients that receive federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart D).
7. **Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794):** Prohibits discrimination on the basis of disability, in regard to both employment and the delivery of services or benefits, in any program or activity receiving federal financial assistance as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart G).
8. **Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §12132):** Prohibits discrimination against qualified individuals with disabilities, in regard to both employment and the delivery of services or benefits, in all programs, activities, and services of public entities as set forth in the DOJ implementing regulations (28 C.F.R. Part 35). Title II applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments.
9. **Title IX of the Education Amendments of 1972 (20 U.S.C. §1681):** Prohibits discrimination on the basis of sex in educational programs and activities that receive federal financial assistance as set forth in the DOJ implementing regulations (28 C.F.R. Part 54).
10. **Age Discrimination Act of 1975 (42 U.S.C. §6102):** Prohibits discrimination on the basis of age in the programs and activities receiving federal financial assistance as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart I). The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements.
11. **DOJ regulations on the Equal Treatment for Faith-Based Organizations:** Prohibits discrimination on the basis of religion in the delivery of services and prohibits organizations from using DOJ funding on

inherently religious activities (28 C.F.R. Part 38).

### **C. COMPLAINT PROCEDURES**

1. ODPS shall accept and acknowledge all discrimination complaints from clients, customers, program participants, or consumers of ODPS or ODPS grant recipients. All discrimination allegations and complaints shall be referred to the designated ODPS Civil Rights Complaint Coordinator.
2. A client, customer, program participant or consumer may file a complaint of discrimination via email to the appropriate ODPS grant coordinator or via U. S. Mail to the attention of the ODPS Civil Rights Complaint Coordinator (1970 West Broad Street, Columbus, Oh, 43223). The complaint should include the complainant's name, contact information, and a brief explanation of the alleged discrimination. If the complaint is sent to an ODPS Grant Coordinator, that employee shall forward it immediately to the ODPS Civil Rights Complaint Coordinator.
3. The Complaint Coordinator shall provide an acknowledgement of the complaint to the client, customer, program participant, or consumer via e-mail or in a letter confirming the complaint has been received. The contents of the acknowledgement response must include information specifying the external agency to which the complaint has been forwarded for investigation, and provide information in which the complainant can contact that agency directly. If the complaint is against the ODPS or an ODPS grant recipient implementing funding from the DOJ and the ODPS is not forwarding the complaint to the OCR, the acknowledgement response shall also notify the complainant that he/she may file a complaint directly with the OCR at the following address:

**Office for Civil Rights  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street NW  
Washington, D.C. 20531**

4. The Complaint Coordinator shall then forward the complaint to OCR, OCRC, or other appropriate agency. The complaint shall be investigated by the appropriate agency.
5. All clients, customers, program participants, or customers of ODPS or ODPS grant recipients shall have access to these procedures at any time via the ODPS website ([www.publicsafety.ohio.gov](http://www.publicsafety.ohio.gov)).
6. Any client, customer, program participant, or consumer may choose to file a complaint directly with the DOJ-OCR (if the complaint is against the ODPS or an ODPS grant recipient implementing funding from the DOJ), OCRC, or the appropriate agency as opposed to filing with ODPS. If a complaint is filed directly with an outside agency, ODPS requests that a courtesy copy be forwarded to the ODPS Civil Rights Complaint Coordinator by the complainant. If the complaint is against an ODPS grant recipient, once the grant recipient becomes aware of the complaint, the grant recipient must notify the ODPS Civil Rights Complaint Coordinator of the complaint and how it is being investigated.

### **D. TRAINING**

1. ODPS shall provide annual training for agency employees on these complaint

procedures. The training shall explain an employee's responsibility to refer discrimination complaints from clients, customers, program participants, or consumers to the Complaint Coordinator. This information shall be disseminated to new ODPS employees during new employee orientation training or as appropriate. ODPS will also disseminate a copy of these complaint procedures to ODPS grant recipients.

2. The current policy shall be evaluated annually to determine its effectiveness. ODPS shall make any necessary changes to ensure the complaint process is timely and efficient.

## **Current Form and Supplemental References**

### **Department of Justice Informational Links:**

- [Title VI of the Civil Rights Act of 1964 \(42 U.S.C. §2006b\)](#)
- [Omnibus Crime Control and Safe Streets Act of 1968 \(42 U.S.C. §1789a\(c\)\(1\)\)](#)
- [Section 504 of the Rehabilitation Act of 1973 \(29 U.S.C. §794, Section 794\)](#)
- [Title II of the Americans with Disabilities Act of 1990 \(42 U.S.C. §12132\)](#)
- [Title IX of the Education Amendments of 1972 \(20 U.S.C. §1681\)](#)
- [Age Discrimination Act of 1975 \(42 U.S.C. §6102\)](#)
- [DOJ regulations on the Equal Treatment for Faith-Based Organizations](#)

### **Standard References**

None

### **Policy References**

<a href="#"><u>DPS-100.01</u></a>	ADMINISTRATIVE INVESTIGATIONS
<a href="#"><u>DPS-501.01</u></a>	WORK RULES - NON-SWORN BARGAINING UNIT PERSONNEL
<a href="#"><u>DPS-501.02</u></a>	WORK RULES - SWORN PERSONNEL
<a href="#"><u>DPS-501.03</u></a>	WORK RULES - EXEMPT PERSONNEL
<a href="#"><u>DPS-501.04</u></a>	WORK RULES - TEMPORARY WORKERS, CONTRACT VENDORS, CONSULTANTS, NON-DPS STAFF
<a href="#"><u>DPS-501.15</u></a>	INITIAL EMPLOYMENT ORIENTATION TRAINING
<a href="#"><u>DPS-501.29</u></a>	DISCRIMINATION AND UNLAWFUL HARASSMENT
<a href="#"><u>OSP-103.19</u></a>	ADMINISTRATIVE INVESTIGATIONS - OSP EMPLOYEES
<a href="#"><u>OSP-203.03</u></a>	POWERS / DUTIES, AUTHORITY / CODE OF ETHICS / OATH / RULES AND REGULATIONS



**Ohio Department of Public Safety**  
**Policy Number : DPS-501.39**

**ADDRESSING COMPLAINTS OF EMPLOYMENT  
DISCRIMINATION AGAINST ODPS GRANT RECIPIENTS**

Date of Revision : **8/30/2011**

Priority Review : **All Employees ; All Supervisors**

Distribution : **All ODPS Divisions**

**Summary of Revisions**

New policy to ensure compliance with federal laws and regulations prohibiting employment discrimination.

**Purpose**

To provide guidelines and procedures that allow the Ohio Department of Public Safety (ODPS) to process and forward complaints alleging employment discrimination by employees or applicants of ODPS grant recipients.

**Policy**

**A. STATEMENT OF POLICY**

1. It is the policy of ODPS to prohibit discriminatory employment practices against anyone employed by an ODPS grant recipient, and to ensure all employees have equal employment opportunity. It is the policy of the State of Ohio and ODPS to ensure a working environment free from any discrimination and to prohibit sexual harassment of applicants, customers, clients, and employees, including discriminatory sexual advances or harassment adversely affecting an employee's terms and conditions of employment either directly or indirectly. **ODPS will ensure that grant recipients comply with all applicable federal laws regarding employment discrimination.**
2. **RETALIATION**
  - a. Persons who believe they have been discriminated against on basis of their membership in a protected class (race, color, religion, sex, national origin, disability, age, ancestry, or military status) shall not be retaliated against in terms and conditions of employment or services for exercising their right to file a discrimination complaint or inquiry.
  - b. No person who participates in the investigation of a complaint, or is a witness in an investigation, or brings attention to a person in authority, of an alleged discrimination complaint shall be retaliated against.

**B. DEFINITIONS**

1. **Discrimination:** To make a distinction, show bias towards, or be prejudicial against, a person or thing on the basis of the group, class, or category to which the person or thing belongs, rather than according to actual merit.
2. **Civil Rights Complaint Coordinator:** Person designated by ODPS who is responsible for acknowledging discrimination complaints filed by employees

or applicants of ODPS grant recipients and forwarding them to one of the following: U.S. Equal Employment Opportunity Commission (EEOC); the U.S. Department of Justice (DOJ), Office for Civil Rights (OCR); the Ohio Civil Rights Commission (OCRC); or other appropriate agency. The ODPS EEO Manager shall be the designated Civil Rights Complaint Coordinator.

3. **Grant Recipient:** An agency or organization that receives funding from a division within ODPS, whether it is federal pass-through funding or a state grant. ODPS divisions that provide grants to agencies and organizations include the Office of Criminal Justice Services (OCJS), Ohio Emergency Management Agency (EMA) and Ohio Homeland Security (OHS).
4. **Retaliation:** Occurs when adverse action is taken against an individual in a protected class because he or she engaged in protected activity.
5. **Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3789d(c)(1)):** Prohibits discrimination on the basis of race, color, religion, national origin, and sex, in regard to both employment practices and the delivery of services, in any program or activity receiving federal financial assistance under this statute as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart D).
6. **Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §12132):** Prohibits discrimination against qualified individuals with disabilities, in regard to both employment and the delivery of services or benefits, in all programs, activities, and services of public entities as set forth in DOJ implementing regulations (28 C.F.R. Part 35).
7. **Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794):** Prohibits discrimination on the basis of disability, in regard to both employment and the delivery of services or benefits, in any program or activity receiving federal financial assistance as set forth in the DOJ implementing regulations (28 C.F.R. Part 42, Subpart G).
8. **Title IX of the Education Amendments of 1972 (20 U.S.C. §1681):** Prohibits discrimination on the basis of sex, in regard to both employment and the delivery of services or benefits, in educational programs receiving federal financial assistance as set forth in the DOJ implementing regulations (28 C.F.R. Part 54).

### C. COMPLAINT PROCEDURES

1. ODPS shall accept and acknowledge all discrimination complaints from employees or applicants of ODPS grant recipients. All discrimination allegations and complaints shall be referred to the designated ODPS Civil Rights Complaint Coordinator.
2. An employee or applicant of an ODPS grant recipient may file a complaint of discrimination via e-mail to the appropriate ODPS grant coordinator or via U.S. Mail directly to the attention of the ODPS Civil Rights Complaint Coordinator (1970 West Broad Street, Columbus, Oh, 43223). The complaint should include the complainant's name, contact information, and a brief explanation of the alleged discrimination. If the complaint is sent to an ODPS Grant Coordinator, that employee shall forward it immediately to the ODPS Civil Rights Complaint Coordinator.
3. The Complaint Coordinator shall provide an acknowledgement of the complaint to the employee or applicant of the ODPS grant recipient via e-



mail or in a letter confirming the complaint has been received. The contents of the acknowledgement response must include information specifying the external agency to which the complaint has been forwarded for investigation. If the complaint is against an ODPS grant recipient implementing funding from the DOJ and the ODPS is not forwarding the complaint to the OCR, the acknowledgement response shall also notify the complainant that he/she may file a complaint directly with the OCR at the following address:

**Office for Civil Rights  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street NW  
Washington, D.C. 20531**

4. The Complaint Coordinator shall then forward the complaint to the EEOC, DOJ-OCR, OCRC, or other appropriate agency. The complaint shall be investigated by the appropriate agency.
5. All employees or applicants of ODPS grant recipients shall have access to these procedures at any time via the ODPS website ([www.publicsafety.ohio.gov](http://www.publicsafety.ohio.gov)).
6. Any employee or applicant of an ODPS grant recipient may choose to file a complaint directly with the grant recipient, EEOC, DOJ-OCR (if the grant recipient receives funding from the DOJ), OCRC, or other appropriate agency as opposed to filing with ODPS. If a complaint is filed directly with the grant recipient or with an outside agency, once the grant recipient becomes aware of the complaint, the grant recipient must notify the ODPS Civil Rights Complaint Coordinator of the complaint and how it is being investigated.

#### **D. TRAINING**

1. ODPS shall provide annual training for agency employees on these complaint procedures. The training shall explain an employee's responsibility to refer discrimination complaints from employees or applicants of ODPS grant recipients to the Complaint Coordinator. This information shall be disseminated to new ODPS employees during new employee orientation training or as appropriate. The ODPS shall also disseminate a copy of these complaint procedures to ODPS grant recipients.
2. The current policy shall be evaluated annually to determine its effectiveness. ODPS shall make any necessary changes to ensure the complaint process is timely and efficient.

#### **Current Form and Supplemental References**

##### **Department of Justice Informational Links:**

- [Omnibus Crime Control and Safe Streets Act of 1968 \(42 U.S.C. §3789d\(c\)\(1\)\)](#)
- [Title II of the Americans with Disabilities Act of 1990 \(42 U.S.C. §12132\)](#)
- [Section 504 of the Rehabilitation Act of 1973 \(29 U.S.C. §794, Section 504\)](#)
- [Title IX of the Education Amendments of 1972 \(20 U.S.C. §1681\)](#)

##### **Standard References**

None

##### **Policy References**

<u>DPS-100.01</u>	ADMINISTRATIVE INVESTIGATIONS
<u>DPS-501.01</u>	WORK RULES - NON-SWORN BARGAINING UNIT PERSONNEL
<u>DPS-501.02</u>	WORK RULES - SWORN PERSONNEL
<u>DPS-501.03</u>	WORK RULES - EXEMPT PERSONNEL
<u>DPS-501.04</u>	WORK RULES - TEMPORARY WORKERS, CONTRACT VENDORS, CONSULTANTS, NON-DPS STAFF
<u>DPS-501.15</u>	INITIAL EMPLOYMENT ORIENTATION TRAINING
<u>DPS-501.29</u>	DISCRIMINATION AND UNLAWFUL HARASSMENT
<u>OSP-103.19</u>	ADMINISTRATIVE INVESTIGATIONS - OSP EMPLOYEES
<u>OSP-203.03</u>	POWERS / DUTIES, AUTHORITY / CODE OF ETHICS / OATH / RULES AND REGULATIONS

**Appendix B – FEMA Guidance Regarding Implementation of Executive Order 13809 Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources (Grant Programs Directorate Information Bulletin No. 426)**

U.S. Department of Homeland Security  
Washington, DC 20472



**FEMA**

**Grant Programs Directorate Information Bulletin  
No. 426  
November 1, 2017**

**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 Advisors  
All State Emergency Management Agency Directors  
All Eligible Regional Transit Agencies  
All Private Sector Transportation Security Partners  
All Public and Private Sector Port Security Partners  
All Tribal Nation *Points of Contact*

**FROM:** Thomas DiNanno *Thomas DiNanno*  
Assistant Administrator for Grant Programs  
Federal Emergency Management Agency

**SUBJECT:** Guidance to Recipients and Subrecipients of FEMA  
Preparedness Grants Regarding Implementation of Executive  
Order 13809 Restoring State, Tribal, and Local Law  
Enforcement's Access to Life-Saving Equipment and  
Resources

**I. Purpose**

This Information Bulletin (IB) provides guidance to recipients of FEMA preparedness grants regarding the implementation of [Executive Order \(EO\) 13809 Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources](#), signed on August 28, 2017.

**II. Applicability**

This IB is applicable to all grants awarded by the Federal Emergency Management Agency subject to IB 407a (January 19, 2017) or any previous versions of IB 407, which applied to awards made on or after October 1, 2015.

**III. Guidance**

**A. Executive Order 13809 Implementation**

1. On August 28, 2017, the President signed EO 13809, "Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources."
2. EO 13809 revoked EO 13688 "Federal Support for Local Law Enforcement Equipment Acquisition," dated January 16, 2015.
3. Since IB #407, "Use of Grant Funds for Controlled Equipment" and IB #407a, "Use of Grant Funds for Controlled Equipment: Update for Fiscal Year 2017" were issued in order to comply with Executive Order 13688, these IBs are rescinded, effective immediately.
4. Similarly, FEMA is no longer requiring the use of FEMA Form 087-0-0-1.
5. All references to IBs 407 and 407a and FEMA Form 087-0-0-1 will be removed from the FEMA Authorized Equipment List (AEL) as soon as practical. Until such time as this action is completed, recipients and subrecipients may disregard any requirements in the AEL referencing these IBs. Recipients should contact their GPD or Regional Program Analyst with any and all specific questions.

**B. Policy on Use of FEMA Grant Awards to Purchase Certain Equipment Items**

1. All items that were on the Prohibited Equipment List in IBs 407 and 407a except for tracked armored vehicles (AEL #12VE-00-MISS - [Vehicle, Specialized Mission](#)) and urban camouflage uniform items (AEL #01LE-02-BDUS - [Specialized Clothing, NFPA 1975 or NFPA 2112](#)) remain unallowable under any FEMA preparedness grant.
2. Unless noted below, all items that were on the Controlled Equipment List in IBs 407 and 407a are allowable under FEMA preparedness grants, provided that acquisition of the items are consistent with the terms of the award, including the applicable Notice of Funding Opportunity (NOFO).
3. Weapons of any kind (including firearms, grenade launchers, bayonets); ammunition; and weaponized aircraft, vessels, and vehicles of any kind remain unallowable expenses under any FEMA preparedness grant program.
4. Purchase of explosive materials remains subject to the requirements found in [IB 419 Purchase of Energetic Materials Using Homeland Security Grant Program \(HSGP\) Funding](#).
5. Purchase of fixed or rotary wing aircraft (AEL #18AC-00-ACFT - [Aircraft, CBRNE](#)) will continue to require a waiver from FEMA by consulting the appropriate FEMA Program Analyst, providing a detailed justification for obligating funds in this category, and receiving approval to obligate funds. A detailed justification must address the following:
  - a. The need for the aircraft and how the requested platform best meets that need as compared to other options;

- b. How the requested aircraft fits into the State/Urban Area's integrated operational plans;
- c. Types of terrorism incident response and prevention equipment with which the requested aircraft will be outfitted, if purchased using HSGP funds;
- d. How the aircraft will be used operationally and which response assets will be deployed using the requested aircraft; and
- e. How the aircraft will be utilized on a regular, non-emergency basis.

Licensing, registration fees, insurance, and all ongoing operational expenses will continue to be the responsibility of the grantee or the local units of government and are not allowable under the grant.

- 6. Small Unmanned Aircraft Systems (AEL #03OE-07-SUAS - [System, Small Unmanned Aircraft](#)) are considered aircraft and are required to meet the requirements in #3 above. In addition, all requests to purchase SUAS with FEMA grant funding must also include copies of 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.
- 7. Equipment intended to be used for riot suppression including riot batons, riot helmets, and riot shields continues to be an unallowable expense under any FEMA preparedness grant program.
- 8. Recipients and subrecipients must continue to comply with all other equipment acquisition requirements of their award's applicable NOFO, including requirements governing the acquisition of equipment not identified in the AEL.

#### IV. Questions

Questions regarding this IB may be directed to the applicable GPD or Regional Program Analyst.

#### V. Review Date

This IB will be reviewed within five years (5) from date of issuance.



## Appendix C – FEMA Guidance regarding Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance




EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
FINANCIAL MANAGEMENT

June 20, 2018

M-18-18

### MEMORANDUM FOR CHIEF FINANCIAL OFFICERS AND HEADS OF SMALL EXECUTIVE AGENCIES

FROM: Tim Soltis   
Deputy Controller, Office of Federal Financial Management

SUBJECT: Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance

In accordance with recent statutory changes set forth in the National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018, this memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and raises the threshold for simplified acquisitions to \$250,000 for all recipients. Further, it implements an approval process for certain institutions that want to request micro-purchase thresholds higher than \$10,000. Agencies are required to implement these changes in the terms and conditions of their awards, and recipients of existing Federal financial assistance awards may implement them in their internal controls.

#### **Background**

This memorandum applies to all Federal agencies, as defined at 5 U.S.C. § 551(1), that award grants or cooperative agreements. It implements changes to the micro-purchase and simplified acquisition thresholds for financial assistance under the NDAs for Fiscal Year (FY) 2017 and FY2018. The micro-purchase threshold refers to purchases of supplies or services using simplified acquisition procedures, not to exceed an established amount pursuant to the Office of Management and Budget (OMB) Governmentwide Guidance for Grants and Agreements ("Uniform Guidance") at 2 C.F.R. § 200.67 (Micro-purchase). The simplified acquisition threshold refers to purchases of property or services using small purchase methods not to exceed an established amount pursuant to 2 C.F.R. § 200.88 (Simplified acquisition threshold). For Federal financial assistance awards, these purchases are acquired for use by a Federal program. The NDAA for FY2017 increased the micro-purchase threshold from \$3,500 to \$10,000 for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes (41 U.S.C. § 1908). The NDAA for FY2018 increases the micro-purchase threshold to \$10,000 for all recipients and also increases the simplified acquisition threshold from \$100,000 to \$250,000 for all recipients.

#### **Implementing the NDAA for FY2017**

Section 217(b) of the NDAA for FY2017 raises the micro-purchase threshold to \$10,000 for procurements under grants and cooperative agreements for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes.<sup>1</sup>

<sup>1</sup> Pub. L. No. 114-328 (codified at 41 U.S.C. § 1902(a)(2)).

The NDAA for FY2017 also establishes an interim uniform process by which these recipients can request and Federal agencies can approve requests to apply a higher micro-purchase threshold. Specifically, the 2017 NDAA allows a threshold above \$10,000 if approved by the head of the relevant executive agency. For purposes of this approval, the institution's cognizant Federal agency for indirect cost rates will be the relevant executive agency as defined in 2 C.F.R. § 200.19 (Cognizant agency for indirect costs). To receive a higher threshold, the institution must either have "clean single audit findings" (*i.e.*, in accordance with 2 C.F.R. § 200.520 - Criteria for a low-risk auditee), have an acceptable internal institutional risk assessment, or the higher threshold must be consistent with State law for public institutions.

Agencies should reflect this change through policy or terms and conditions in awards for those institutions. The effective date for this change was when the NDAA for FY2017 was signed into law on December 23, 2016. OMB intends to revise the Uniform Guidance to conform with the law.<sup>2</sup>

#### **Process for Requesting a Higher Threshold Under the NDAA for FY2017**

Requests for approval should be submitted to the institution's cognizant Federal agency for indirect cost rates; however, institutions should contact the agency before sending the request to determine the correct point of contact. The cognizant Federal agency will assign review of the request to the appropriate office within the agency to determine whether to approve, and will maintain records and justification of all approvals. The request should include the threshold level being requested and the justification(s) for it based on the criteria above per Section 217(b) of the NDAA for FY2017.

#### **Implementing the NDAA for FY2018**

This memorandum also implements provisions of the NDAA for FY 2018, Pub. L. No. 115-91, which became law on December 12, 2017. Specifically, section 806 raised the micro-purchase threshold from \$3,500 to \$10,000, and section 805 raised the simplified acquisition threshold from \$100,000 to \$250,000. Pursuant to 2 C.F.R. § 200.67 (Micro-purchase) and 2 C.F.R. § 200.88 (Simplified acquisition threshold), these higher thresholds are not effective until implemented in the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 2.1 (Definitions).<sup>3</sup>

In order to allow maximum flexibility for grant recipients in light of the changes to the NDAA for FY2018, OMB is granting an exception allowing recipients to use the higher threshold of \$10,000 for micro-purchases and \$250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance. Pursuant to 2 C.F.R. § 200.102 (Exceptions), OMB may allow exceptions to the Uniform Guidance when exceptions are not prohibited by statute. The exception takes effect upon the date of issuance of this memo. Agencies should apply this exception to all recipients. Recipients should document any change based on this exception in accordance with 2 C.F.R. § 200.318 (General procurement standards).

If you have any questions regarding this memorandum, please contact Mary Tutman at [Mary.E.Tutman@omb.eop.gov](mailto:Mary.E.Tutman@omb.eop.gov) or Gil Tran at [Hai\\_M.\\_Tran@omb.eop.gov](mailto:Hai_M._Tran@omb.eop.gov).

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<sup>2</sup> The American Innovation and Competitiveness Act, Pub. L. No. 114-329, § 207(b) (2017) states that the Uniform Guidance shall be revised to conform with the requirements concerning the micro-purchase threshold.

<sup>3</sup> Codified at 41 U.S.C. § 1902(f).

## Appendix D - Application Preparation Checklist

- ☐ Read the entire guidance and application package.
- ☐ Meet with Regional Advisory Committee to develop and prioritize regional projects.
- ☐ Prepare and print out the following forms to be mailed to Ohio EMA Grants:

_____	Signed grant agreement
_____	20-16 Summary Sheet for Assurances
_____	20-16A Assurances Non-Construction
_____	20-16B Assurances Construction Program
_____	20-16C Lobbying, Debarment, Suspension and Other Requirements
_____	20-SF-LLL Disclosure of Lobbying Activities
_____	NIMS certification statement
_____	EGMS User Form
_____	Contact Information Form
_____	Advisory Team Information Form
_____	EHP Screening tool (required unless project is exempt)

All forms can be downloaded from [http://ema.ohio.gov/PreparednessGrants\\_HSGP.aspx](http://ema.ohio.gov/PreparednessGrants_HSGP.aspx)

- ☐ Provide a list of prioritized projects from the region.

**An Application Template has been provided for use in developing each project. Paper applications ARE NOT to be submitted to Ohio EMA, but are to be used as a tool for developing the necessary information to enter each project into EGMS.**

*With this ensure the following:*

- ☐ Application addresses how each project directly supports terrorism preparedness, response, recovery or dual purpose as applicable.
- ☐ Application clearly supports core capability(ies) allowable by funding opportunity
- ☐ EHP has been addressed regardless of project
- ☐ All equipment has been properly identified on the FEMA AEL
- ☐ All projects meet the priorities stated in the FY18 Local Guidance
- ☐ ALL budget figures have been checked for accuracy.
- ☐ Application entered in EGMS is being submitted by the county/organization designated as fiscal agent for region.
- ☐ **All grant projects entered in EGMS by November 16, 2018**
- ☐ **The signed grant agreement and all required forms are submitted by mail (postmarked, no faxes or emails will be accepted), by November 16, 2018 to Ohio**



**EMA Grants, 2855 W. Dublin-Granville Rd, Columbus, Ohio 43235**