


Wisconsin Emergency Management (WEM)

Notice of Funding Opportunity (NOFO)



State Local Cybersecurity Grant Program
(SLCGP)

Cycle 1 Funding 2022

**Applications must be submitted in
Egrants on or before **Thursday, August 15, 2024.****

SLCGP Cycle 1 Funding 2022 NOFO

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A. PROGRAM DESCRIPTION

The Infrastructure Investment and Jobs Act (IIJA) established grant funding through the State and Local Cybersecurity Grant Program (SLCGP) to award grants to eligible entities to address cybersecurity risks and cybersecurity threats to information systems. The SLCGP provides funding to state, local, and tribal governments to improve their cybersecurity capabilities. Administered through the federal Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA), the program aims to help state, local, and tribal governments improve their cybersecurity posture and better protect their networks, systems, and data from cyber threats.

In Wisconsin, the SLCGP is administered by Wisconsin Emergency Management (WEM) and the Division of Enterprise Technology (DET). Grant funding is available to counties, tribes, municipalities, school districts, utilities, and other public entities as part of a competitive grant process. Grant funding can be used on cybersecurity-related activities, including purchase and installation or activation of multifactor authentication (MFA) and managed detection and response (MDR).

For additional information or questions, please reach out to the primary contact as listed in [section G](#) of this document. The grant manager for this funding opportunity is:

Grant manager: **Marc Couturier, SLCGP Grant Manager**
Phone: **(608) 242-3258**
Email/MS Teams: **marc.couturier@widma.gov**

B. AWARD INFORMATION

(1) Funding source:

Authorizing authority: The Department of Homeland Security as authorized by section 2220A of the Homeland Security Act of 2002, as amended (Pub. L. No. 107-296) (6 U.S.C. § 665g)

Appropriation authority: Infrastructure Investment and Jobs Act (Pub. L. No. 117-58)

Grant Award: State and Local Cybersecurity Grant Program FFY2022 awarded to WEM under grant number EMW-2022-CY-00053.

(2) **Assistance Listing Number (for Single Audit requirement):** 97.137

(3) **Total amount of funds eligible:** \$3,035,612.00

(4) **Anticipated number of awards:** 30

(5) **Anticipated grant award amount:** \$100,000.00

(6) **Anticipated grant performance/budget period:** 09/01/2024-08/31/2026

(7) **Type of grant award:** This is a new competitive grant opportunity for one-time initiative projects. Applications for renewal or supplementing existing project are not eligible.

(8) **Expectations:** If WEM approves an application for award, the authorized representative of your agency will be required to sign an agreement with WEM that sets forth your agency's obligations to adhere to this NOFO and all requirements set forth in [section F](#) of this NOFO. **Please review the entirety of this NOFO and each document in [section F](#) carefully prior to applying for this grant to ensure that your agency will be able to fulfill all obligations set forth in them should its application be approved.** Grant recipients must complete the Nationwide Cybersecurity Review (NCSR) prior to grant close Year 1 and then annually for each year funding is approved. The NCSR is available each year from October through February at <https://www.cisecurity.org/ms-isac/services/ncsr>. Grant recipients must sign up for free cyber hygiene services through CISA: <https://www.cisa.gov/cyber-hygiene-services>.

C. ELIGIBILITY

(1) Eligible applicants

All applicants that submit an application for this funding opportunity are certifying that they are willing and able to comply with all requirements as stated in this NOFO including all rules and regulations

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identified in [section F](#) of this document. Eligible applicants are government agencies including counties, municipalities, local public authorities, school districts, special districts, intrastate districts, councils of government, regional or interstate government entities, agencies or instrumentalities of a local government, authorized tribal governments and organizations, rural communities, unincorporated towns or villages, and other public entities.

Additional eligibility requirements for federal funding

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

(2) Cost share or local match

There are no cost share or local match requirements for this funding opportunity as the ten percent (10%) match requirement for this first year of funding has been waived by FEMA. Any costs over the eligible award amount will be the responsibility of the applicant.

(3) Eligible costs and funding restrictions

All expenses related to this grant must be allowable, reasonable, allocable, and incurred within the grant's performance and budget period. Applicants that accept funding are responsible for all sustainment costs. Additional funding restrictions are included in [section D\(4\)](#) of this document.

(a) Allowable costs

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

Supplies & Operating

Costs under this category are for equipment and/or supplies \$5,000.00 or less.

Eligible costs under this category are limited to the following:

- Multi factor authentication (MFA) and/or managed detection and response (MDR).

Equipment

Costs under this category include:

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

Eligible costs under this category are limited to the following:

- Multi factor authentication (MFA) and/or managed detection and response (MDR).

Consultant/Contractual

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

- Contractual services associated with multi factor authentication (MFA) and/or managed detection and response (MDR).

(b) Conditionally allowable costs

The following costs may be conditionally approved with proper justification and dependent on availability of funding:

- There are no conditionally allowable costs.

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(c) Unallowable costs

The following costs are unallowable under this funding opportunity:

- Construction costs.
- Only items under allowable costs will be considered.

(4) Eligible activity and outcomes

The activity supported by this grant must contribute to the achievement of the program's goals and objectives, and the expected performance goals, indicators, targets, baseline data, data collection, and other outcomes as described in Section A for Program Description. Any activity that occurs outside this grant's performance period is unallowable.

D. APPLICATION & SUBMISSION INFORMATION

(1) Pre-application

There are no pre-application requirements for this funding opportunity.

(2) Full application

The application for this is available and conducted through WEM's online grant management system called Egrants. Through Egrants, you will provide WEM with detailed information about your project that will be used to make a funding decision. All applications must be submitted through this system in the manner prescribed below unless a special accommodation has been requested.

(a) Access application

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

(b) Application components

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

(i) Main Summary

1. Agency
2. Unique Entity Identifier (UEI)

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

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

3. Point of contacts

A separate individual must be selected for each of the following roles:

- **Project Director** - For this grant, select the individual who is responsible and accountable for execution, oversight, and administration of this grant.
- **Financial Officer** - For this grant, select the individual who is responsible and accountable for the financial management of the awarded agency with the authority to certify expenditures.

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- **Signing official** – For this grant, select the individual that has the authority to sign the legal agreement and obligate your agency into a legal grant agreement. In most cases, this is the highest elected official.
- **Alternate contact** – This individual is a back-up contact in the event the Project Director is not available. This individual cannot sign or certify on behalf of the Financial Officer or Project Director.

4. Congressional Districts

Please enter your school district, state senate and assembly districts, and your congressional district. Access the Wisconsin Legislative District Viewer here: <https://maps.legis.wisconsin.gov/#>.

5. Performance Period

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

6. Brief Description

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

“Funds will be used by the (your agency name and others involved in the project) to (describe what funds will be used for and who will be involved). The (what - equipment, training, project, etc.) will (describe the specific goals you hope to achieve – how will the project or equipment improve your agency’s cybersecurity posture?).”

(ii) **Performance Measures**

Please open this section and change the page status to Complete; then SAVE the page. Upon approval of an award, you will be required to report on the impact and outcomes this grant has in your area. See [section F\(4\)](#) of this document for additional information.

(iii) **Budget Detail**

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

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

(iv) **Budget Narrative**

The maximum allowable award amount per entity is \$100,000.00. The budget should demonstrate a clear link to the overall program or project and the proposed budget items. Please attach supporting documentation to support the funds requested such as quotes, estimates, and calculations.

(v) **Agency Profile**

Provide your entity type: county, tribe, municipality, school district, utility, or other public entity. If other public entity, please specify the entity type.

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(vi) **Community Profile**

Is the applicant a rural community?

A rural community is defined in 40 U.S.C. 5302(17) as “an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce.”

(vii) **Organizational Structure & Resources**

Is this a multi-entity application? If so, please upload to the “Required Attachment” section one or more additional pages that list the name and type of all participating entities. Make sure to identify which participating entities (if any) are rural.

(viii) **Project Type**

Select your project type below. Eligible projects activities include multi-factor authentication (MFA), managed detection and response (MDR), or both activities.

MFA is a workforce service that requires users to provide two or more credentials to verify their identity. MFA adds an extra layer of security by providing strong authentication for your cloud, web-based, on-premises, SaaS, and IaaS applications.

MDR services provide customers with remotely-delivered, human-led, turnkey security operations center functions by delivering threat disruption and containment.

(ix) **Project Narrative**

Describe your program or project in detail, including what objectives will be accomplished. Your narrative must address the following questions:

1. Desktop/Laptop Operating System: Please provide the type and version (i.e., Microsoft, Apple, Linux, multiple, other/unknown).
2. Estimated number of users for multi-factor authentication (MFA).
3. Estimated number of computing devices and types (servers, computers, smart phones, tablets, etc.) for managed detection and response (MDR) endpoint security services (ESS).

(x) **Implementation Schedule**

Label project benchmarks by month. For example, Month 1 – Accept grant award, Month 2 – Solicit bids for work, Month 3 – Execute contract for work, etc. You may upload your implementation schedule to the “Required Attachment” section in Egrants.

(xi) **Evidence of Need**

Describe the urgency of implementing the project and potential impacts if it does not proceed.

If the applicant has had a cybersecurity vulnerability scan, please upload the results to the “Required Attachment” section in Egrants. Also include information on impacts from previous cyber incidents; how this investment will address any unmet time-sensitive legal mandates or audit findings; and/or current use of unsupported systems in need of modernization.

(xii) **Program Sustainability**

Describe your plan for continuing critical services when federal funds are no longer available.

(xiii) **Required Attachments**

Please upload the following documents to your application in this section (if needed):

- Quotes, estimates, calculations to support your budget request.
- Multi-entity application information.
- Implementation schedule
- Cybersecurity vulnerability scan.
- Other attachments, as needed or desired.

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(3) Submission dates & times

Applications must be submitted in Egrants on or before 11:59 PM on **Thursday, August 15, 2024**. Failure to complete the Egrants application by the posted deadline and/or respond to requests from WEM may lead to rescindment of grant funding. Any delays in submitting a returned application will result in a delayed grant start date and a shorter period of performance.

(4) Funding restrictions

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

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

Supplanting is the substitution of existing state or local government funding with grant funds.

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

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

(5) Other submission requirements

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

(a) Egrants registration

If you have never used Egrants before, you will need to register for access to the system. To register online, go to <https://register.wisconsin.gov/accountmanagement/default.aspx> and complete the 'self-registration' process. Authorization to access Egrants can take several days depending on registration activity. *Please note: If you register outside the hours of Monday-Friday 7:30am-4pm, access may not be approved until the next business day. Once your Egrants access has been approved, you may begin your online grant application.*

(b) Egrants technical assistance

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

E. APPLICATION REVIEW AND NOTIFICATION OF AWARD

(1) Criteria

All applications must be submitted on or before the deadline to be considered. Applications will be screened for completeness and compliance with the instructions provided in this announcement. Applications will be scored using criteria designed to evaluate the reduction of risk achieved by implementing the project and thoroughness of responses to the required application components.

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(2) Review and selection process

All applications submitted will be reviewed and scored by a committee after the August 15th deadline.

(3) Anticipated announcement and dates

Applicants that are approved for award will be notified in approximately two weeks from the approval date in Egrants by the receipt of award documents.

F. AWARD ADMINISTRATION INFORMATION

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

Upon intent to make an award, you will be required to provide WEM with the awarded agency's Employee Identification Number (EIN) with the submission of a W-9. If your entity does not have an EIN, you can register for one here: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>. In addition, a fully executed agreement should be signed and returned to WEM prior to the start date of your grant. Activity and costs may not be incurred until an agreement is fully signed. See the Grant Award Notices below.

(2) Grant award notices

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

The award document must be returned to WEM prior to the grant performance period start date as indicated in Egrants. Grant awards without signatures will not be considered active until the authorized officials of the applicant agency have signed and returned the award documents to WEM. The grant award documents will explain the total funding amount approved, budget by category, performance period, and fiscal and program reporting requirements and deadlines.

(3) Administrative and policy requirements

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

(a) Standard Terms & Conditions

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

(b) Special Conditions

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

(c) Additional requirements for federally funded grants

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

- (i) Unique Entity Identifier (UEI) and System for Award Management (SAM). Refer to Application Components [section D\(2\)](#) for more information.

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- (ii) Department of Homeland Security Standard Terms & Conditions as provided in this document under [Appendix III: DHS FFY2022 Standard Terms & Conditions](#).
- (iii) The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2022 State and Local Cybersecurity Grant Program: <https://www.fema.gov/fact-sheet/department-homeland-security-notice-funding-opportunity-fiscal-year-2022-state-and-local>
- (iv) Federal Emergency Management Agency (FEMA) Preparedness Grants Manual: Monitoring & reporting: https://www.fema.gov/sites/default/files/documents/fema_fy-2022-preparedness-grants-manual.pdf

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

(a) Progress Reports

Program Reports must be submitted in Egrants quarterly by the 12th day of the month following the end of the quarter. A final Program Report for closeout must be submitted in Egrants within 30 days following the end of the grant.

(b) Inventory Reports

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

(c) Special Conditions

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

(d) Fiscal Reports

Fiscal Reports must be submitted in Egrants quarterly by the 12th day of the month following the end of the quarter. A final fiscal report for closeout must be submitted in Egrants within 30 days following the end of the grant. Please see the [Reimbursement Requests section](#) for more information.

(4) Modifications

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

- (a) Primary contact(s) of the grant.** This includes change in Signing Official, Fiscal Officer, or Project Director.
- (b) Requesting an extension of the performance/budget period.** This includes changes to the grant period and must be submitted prior to the previously approved end date of the grant.
- (c) Scope of work.** This includes changes to the scope, objectives, performance measures, and intent of the approved award.
- (d) Budget adjustment.** This includes changes to the budget that do not fall within a change to the scope or objective and may include a change to the total award or shifting funds among approved cost categories in which the net change is greater than ten percent (10%) of the total award.

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(5) Reimbursement Requests

(a) Requirements

Payments will be made on a reimbursement basis once all requirements, activities, and expenses have been completed by the grantee and verified by WEM. Guidance is available through the Egrants Job Aid for Fiscal Reports: <https://wem.wi.gov/wp-content/library/grants/egrants-job-aid-fiscal-report-and-reimbursement-request.pdf>.

(b) Submission

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

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

(c) Review process

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

G. CONTACT INFORMATION

Grant manager: **Marc Couturier, SLCGP Grant Manager**
Phone: **(608) 242-3258**
Email/MS Teams: **marc.couturier@widma.gov**

H. OTHER INFORMATION

(1) Resources

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

(2) Related programs & funding opportunities

Future funding is anticipated to be available for the following 3 years. Although this first year of funding includes a waiver of the required ten percent match requirement, the FFY 2023, 2024, and 2025 federal funding will require match at 20%, 30% and 40% respectively. An approved award under this funding opportunity does not constitute approval for future federal awards.

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APPENDIX I: SPECIAL CONDITIONS & ADDITIONAL MONITORING

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

1. Nationwide Cybersecurity Review (NCSR)

Grant recipients must complete the Nationwide Cybersecurity Review (NCSR) prior to grant close Year 1 and then annually for each year funding is approved. The NCSR It is available each year from October through February at <https://www.cisecurity.org/ms-isac/services/ncsr>.

2. Cyber Hygiene Services

Grant recipients must sign up for free cyber hygiene services through CISA: <https://www.cisa.gov/cyber-hygiene-services>.

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APPENDIX II: DMA/WEM STANDARD TERMS & CONDITIONS

Article I. Notice of Funding Opportunity Requirements

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

ARTICLE II. Compliance with Award Terms and Conditions

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

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

Article III. Recipient Responsibilities

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

Article IV. Order of Precedence

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

Article V. Adherence to Original Project Objectives and Budget Estimates

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

Article VI. Acceptance of Post Award Changes

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

Article VII. Prior approval and modifications

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

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

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

Article VIII. Allowable activity and costs

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

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

Article IX. Project Income

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

Article X. Duplication of Benefits

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

Article XI. Procurement

Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable state law and procurement standards. If the subrecipient does not have their own procurement policies and procedures, then the State of Wisconsin Procurement Policy and Procedures applies.

<https://doa.wi.gov/Documents/DEO/ProcurementDeskGuide.pdf>

Article XII. Travel expenses

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

https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide_2_2022.pdf

https://dma.wi.gov/wp-content/library/StateHR/Travel/Section_F_21-23.pdf

Article XIII. Equipment and supplies

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

Article XIV. Acknowledgement of Funding from WEM

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

Article XV. Payments and closeout

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

Article XVI. Monitoring

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

Article XVII. Maintaining, retaining and access to records

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

- (a) Subrecipients must maintain official grant records of all grants related activity, adherence to grant requirements and grant funded costs. This includes but is not limited to documentation of actual time and

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effort of any personnel, materials, supplies, travel expenses, inventory records, management of assets, rational and justification to support any split allocation of costs, and any other records that support the allowability of expenditures of grant funds.

- (b) Subrecipients must cooperate with any compliance reviews or compliance investigations conducted by the State of Wisconsin, Department of Military Affairs and/or Wisconsin Emergency Management.
- (e) Subrecipients must give access to examine and copy records, accounts, and other documents and sources of information related to the financial assistance award and permit access to facilities or personnel.

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

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

Article XIX. Nondiscrimination

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

Article XX. Liability

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

Article XXI. Establishment of safeguards

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

Article XXII. Termination of Agreement.

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

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

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APPENDIX III: DHS FY2022 STANDARD TERMS & CONDITIONS

Article I. Applicability of DHS Standard Terms and Conditions

Section 1.01 Recipients and Subrecipients

The Fiscal Year (FY) 2022 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2022. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2022 DHS Standard Terms and Conditions will be housed on dhs.gov at www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions.

Section 1.02 Tribes

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

Article II. Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

- (a) DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
- (b) DHS financial assistance recipients and subrecipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.
- (c) By accepting this agreement, recipients and their executives, as defined in 2 C.F.R. section 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

Article III. General Acknowledgements and Assurances

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

- (a) Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.
- (b) Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.
- (c) Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- (d) Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

Article IV. Acknowledgement of Federal Funding from DHS

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

Article V. Activities Conducted Abroad

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

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Article VI. Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article VII. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) {codified as amended at 42 U.S.C. sections 12101 - 12213}, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

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

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

Article IX. Civil Rights Act of 1964 -Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article X. Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units - i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators) - be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article XI. Copyright

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

Article XII. Debarment and Suspension

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

Article XIII. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

Article XIV. Duplication of Benefits

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

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

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article XVI. Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94-163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XVII. False Claims Act and Program Fraud Civil Remedies

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

Article XVIII. Federal Debt Status

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

Article XIX. Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

Article XX. Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article XXI. Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

Article XXII. John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to DHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Article XXIII. Limited English Proficiency (Civil Rights Act of 1964 - Title VI)

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

Article XXIV. Lobbying Prohibitions

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

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Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XXV. National Environmental Policy Act

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

Article XXVI. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article XXVII. Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article XXVIII. Notice of Funding Opportunity Requirements

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

Article XXIX. Patents and Intellectual Property Rights

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

Article XXX. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article XXXI. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

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

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

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

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- (a) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (b) all manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (c) all construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

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

- a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
 - i) *applying the domestic content procurement preference would be inconsistent with the public interest;*
 - ii) *the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or*
 - iii) *the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.*

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the OMB Made in America Office.

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

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

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

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article XXXIV. Reporting Subawards and Executive Compensation

Reporting of first tier subawards. Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

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Article XXXV. SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XXXVI. Terrorist Financing

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

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

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

Article XXXVIII. Universal Identifier and System of Award Management

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

Article XXXIX. USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. sections 175-175c.

Article XL. Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XLI. Whistleblower Protection Act

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

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

DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of funding requires the recipient to comply with all federal, state, and local laws.

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

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

Article XLIII. Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the

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changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

Article XLIV. Disposition of Equipment Acquired Under the Federal Award

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