

The Department of Homeland Security 2017 Standard Terms and Conditions

FEDERAL STATUTES, REGULATIONS AND GRANT PROGRAM GUIDANCE

Recipients, subrecipients, and sub-contractors must adhere to federal legislation passed by Congress as well as codified regulations implemented through administrative requirements. The following language must be included in any recipient and subrecipient agreement articles, contracts, MOUs, and LOAs.

The FY 2017 DHS Standard Terms and Conditions below apply to Federal financial assistance awards funded after December 26, 2014.

- 1) **Administrative Requirements and Cost Principles and Audit Requirements** – Subrecipients must follow the administrative, cost principles, and audit requirements in [TITLE 2 CODE OF FEDERAL REGULATIONS PART 200— UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS](#)
- 2) **Acknowledgement of Federal Funding from Department of Homeland Security** – Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
- 3) **Activities Conducted Abroad** – Subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
- 4) **Age Discrimination Act of 1975** – Subrecipients must comply with the requirements of the *Age Discrimination Act of 1975* ([Title 42 U.S.C. § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
- 5) **Americans with Disabilities Act of 1990** – Subrecipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, which prohibits subrecipients 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](#)).
- 6) **Best Practices for Collection and Use of Personally Identifiable Information (PII)** – DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award subrecipients may also find as a useful resource the DHS Privacy Impact Assessments: http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf
http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf
- 7) **Buy American and Hire American** – All recipients are required to comply with any applicable provisions of the Buy American Act (41 U.S.C. 8301-8305) and any other applicable statutes, regulations, or rules that require, or provide a preference for, the purchase or acquisitions of goods, products, or materials produced in the United States. Note: Ensures compliance with Executive Order (E.O.) dated April 18, 2017.
- 8) **Civil Rights Act of 1964 – Title VI and Civil Rights Act of 1968** – Subrecipients must 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. DHS implementing regulations for the Act are found at [6 C.F.R., Part 21](#) and [44 C.F.R. Part 7](#). Subrecipients must comply with [Title VIII of the Civil Rights Act of 1968](#), which prohibits subrecipients 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 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. § 100.201](#)).

- 9) **Copyright** – Subrecipients shall affix the applicable copyright notices of [17 U.S.C. § 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including award number) to any work first produced under Federal financial assistance awards.
- 10) **Debarment and Suspension** – Subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders [12549](#) and [12689](#), and [2 C.F.R. Part 180](#). These regulations restrict contracts, awards, and subawards with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.
- 11) **Drug-Free Workplace Regulations** – Subrecipients must comply with the *Drug-Free Workplace Act of 1988* ([41 U.S.C. § 701 et seq.](#)), which requires all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act’s implementing regulations at [2 C.F.R. 3001](#).
- 12) **Duplication of Benefits** – Any cost allocable to a particular Federal award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or Federal award terms and conditions, or for other reasons. However, these prohibitions would not preclude subrecipients from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the Federal award terms and conditions.
- 13) **Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX** – Subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972 ([20 U.S.C. § 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. Implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#).
- 14) **Energy Policy and Conservation Act** – Subrecipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
- 15) **False Claims Act and Program Fraud Civil Remedies** – Subrecipients must comply with the requirements of [31 U.S.C. § 3729-3733](#) which prohibits the submission of false or fraudulent claims for payment to the Federal Government. (See [31 U.S.C. § 3801-3812](#) which details the administrative remedies for false claims and statements made.)
- 16) **Federal Debt Status** – Subrecipients 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](#).)

- 17) **Federal Leadership on Reducing Text Messaging while Driving** – Subrecipients 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.
- 18) **Fly America Act of 1974** – Subrecipients must comply with Preference for 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 B-138942.
- 19) **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](#), subrecipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, as amended, [15 U.S.C. §2225](#).
- 20) **Limited English Proficiency (Civil Rights Act of 1964, Title VI)** – Subrecipients must comply with the *Title VI of the Civil Rights Act of 1964* (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients 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>.
- 21) **Lobbying Prohibitions** – Subrecipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under an award may be expended by the subrecipient 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.
- 22) **National Environmental Policy Act** – Subrecipients must comply with the requirements of the [National Policy Act](#) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires subrecipients to use all practical 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.
- 23) **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. Subrecipients 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.
- 24) **Non-supplanting Requirement** – Subrecipients who receive 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.

- 25) **NOTICE OF FUNDING OPPORTUNITY (NOFO) REQUIREMENTS** – All of the instructions, guidance, limitations, and other conditions set forth in the notice of funding opportunity (NOFO) for DHS grant programs are incorporated here by reference in the subaward terms and conditions. All subrecipients must comply with any such requirements set forth in the program NOFO. Note: the NOFO is also referred to as the “grant program guidance.”
- 26) **Patents and Intellectual Property Rights** – Unless otherwise provided by law, subrecipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) *et seq.* All subrecipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 C.F.R. Part 401](#) and the standard patent rights clause in 37 C.F.R. § 401.14.
- 27) **Procurement of Recovered Materials** – Subrecipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the [Resource Conservation and Recovery Act](#). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 C.F.R. Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.
- 28) **Rehabilitation Act of 1973** – Subrecipients must 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.
- 29) **Reporting of Matters Related to Subrecipient Integrity and Performance** – If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance office exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, you 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 your subaward terms and conditions.
- 30) **Reporting Subawards and Executive Compensation** – Subrecipients 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 terms and conditions of your subaward.
- 31) **SAFECOM** – Subrecipients who receive 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.
- 32) **Terrorist Financing E.O. 13224** – Subrecipients must comply with [E.O. 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of subrecipients to ensure compliance with the Order and laws.
- 33) **Trafficking Victims Protection Act of 2000** – Subrecipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the [Trafficking Victims Protection Act of 2000](#), (TVPA) as amended ([22 U.S.C. § 7104](#)). The award term is located at [2 C.F.R. § 175.15](#), the full text of which is incorporated here by reference in your subaward terms and conditions.

- 34) **Universal Identifier and System of Award Management (SAM)** – Subrecipients are required to comply with the requirements set forth in the government-wide 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 in your subaward terms and conditions.
- 35) **USA Patriot Act of 2001** – Subrecipients must 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](#).
- 36) **Use of DHS Seal, Logo and Flags** – Subrecipients must obtain permission from the financial assistance office, 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.
- 37) **Whistleblower Protection Act** – Subrecipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C. § 2409](#), [41 U.S.C. § 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).
- 38) **DHS Specific Acknowledgements and Assurances** – Subrecipients must acknowledge and agree—and require any contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS and HSEMD access to records, accounts, documents, information, facilities, and staff.
- a. Subrecipients must cooperate with any compliance reviews or complaint investigations conducted by DHS and/or HSEMD.
 - b. Subrecipients must give DHS and HSEMD access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the subaward and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS or HSEMD and other applicable laws or program guidance.
 - c. Subrecipients must submit timely, complete, and accurate reports to the appropriate DHS and HSEMD officials and maintain appropriate backup documentation to support the reports.
 - d. Subrecipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
 - e. If, during the past three years, the subrecipient 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 subrecipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to HSEMD by mail to the Grant Manager’s attention at 7900 Hickman Road, Suite 500, Windsor Heights, IA 50324 and the DHS awarding office and the [DHS Office of Civil Rights and Civil Liberties](#) (CRCL) by email at crcl@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
 - f. 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 subrecipient, or the subrecipient settles a case or matter alleging such discrimination, subrecipients must forward a copy of the complaint and findings to HSEMD and the DHS financial assistance office and the CRCL office by email or mail at the addresses listed above.

The State of Iowa and the United States have the right to seek judicial enforcement of these obligations.