U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)

Notice of Funding Opportunity

Hazardous Materials Emergency Preparedness (HMEP) Tribal Grant

Fiscal Year (FY) 2023

NOFO Posted Date:	March 20, 2023
Applications Due Date:	May 5, 2023, 11:59 p.m. EST
Questions Due Date:	May 2, 2023, 11:59 p.m. EST

Applicants must be registered at www.grants.gov to apply online. It is highly recommended that applicants begin the registration process as soon as possible to avoid delays in submission. Additionally, applicants must maintain an active registration in the System for Award Management at www.SAM.gov.

Furthermore, applicants are encouraged to register for an account with FedConnect at www.fedconnect.net before applying. FedConnect is a messaging platform where applicants can communicate directly with PHMSA. Your organization's Marketing Partner ID Number (MPIN), which can be retrieved from SAM, is required to create an account. For instructions on how to register in FedConnect and how it works, click on the link to access the *FedConnect: Ready, Set, Go! Tutorial* on the FedConnect home page.

Assistance Listing (formerly CFDA)
20.703 "Interagency Hazardous Materials Public Sector Training and Planning Grants"

PHMSA Notice of Funding Opportunity Number
693JK323NF0007

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PROGRAM SUMMARY

Federal Agency Name:	U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA)
Funding Opportunity Title:	"Hazardous Materials Emergency Preparedness Tribal Grant – FY 2023"
Announcement Type:	Initial Announcement
Funding Opportunity Number:	**693JK23NF0007**
Assistance Listing Number:	20.703
NOFO Posted Date:	March 20, 2023
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MISSION

The U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) protects people and the environment by advancing the safe transportation of energy and other hazardous materials (hazmat) that are essential to our daily lives. To do this, PHMSA establishes national policy, sets and enforces standards, educates, and conducts research to prevent incidents. PHMSA also prepares the public and first responders to reduce consequences if an incident does occur. To accomplish this, PHMSA awards financial assistance to states, tribes, and territories, to ensure industry compliance with the Hazardous Materials Regulations (HMR).

SECTION A - PROGRAM DESCRIPTION

A.1 Statement of Purpose

This funding opportunity falls under Assistance Listing 20.703. PHMSA, through this Notice of Funding Opportunity (NOFO), is requesting applications from federally recognized tribes and tribal organizations for Hazardous Materials Emergency Preparedness (HMEP) funding to carry out hazardous materials planning and training activities to ensure the safe transport of hazardous materials.

Consistent with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009), PHMSA's FY 2023 HMEP Tribal funding priority is focused on HMEP planning and training in underserved communities, including activities to ensure the safe transportation of hazardous materials by training emergency responders and funding planning activities such as commodity flow studies, tabletop exercises, and developing emergency response plans. PHMSA's goal is to ensure responders who receive training under the grant will be able to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous materials. PHMSA's goal for planning activities is to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction.

PHMSA requires that applicants identify specific training and planning projects based on jurisdictional needs and maintain a record of the following: 1) number trained; 2) course type; 3) cost of training; 4) number of emergency response plans developed; 5) number of commodity flow studies completed; 6) number of exercises conducted; 7) location of training; and 8) a detailed accounting and description of each grant expenditure, including the amount of and purpose for each expenditure. PHMSA measures performance based on the projects included in the approved grant application and whether those projects fulfilled the training and planning needs outlined in the statement of need.

PHMSA requires that applicants comply with all applicable federal financial assistance regulations and maintain an auditable accounting system that includes a detailed accounting and description of each grant expenditure. PHMSA measures performance based on the projects included in the approved financial assistance application and whether those projects fulfilled the needs outlined in the statement of need.

A.2 Statute and Program Authority

The HMEP program is authorized under 49 U.S.C. § 5116 and is governed by program regulations in 49 CFR Part 110, and federal grants administration regulations at 2 CFR Part 200. On December 4, 2015, the Fixing America's Surface Transportation (FAST) Act was signed into law (Public Law No. 114-94). The FAST Act reauthorized the HMEP Grant Program. Section 7203 of the FAST Act amended 49 U.S.C. §5116 to combine planning and training grants into section 5116 (a).

A.3 Background

Congress authorized the HMEP grant program in 1990 under the Hazardous Materials Transportation Act (P.L. 101-615), codified at 49 U.S.C. § 5101 et. seq. Since its inception, the HMEP has been fully funded by registration fees collected from hazardous materials (hazmat) shippers and carriers who offer for transportation or transport certain hazmat in intrastate, interstate, or foreign commerce. Subject to the availability of funds, the HMEP grant is authorized in the amount of $21,988,000 for states, tribes, and territories. Of this amount, approximately $1,000,000 will be made available to federally recognized tribes and tribal nonprofit organizations. Federally recognized tribes and tribal nonprofit organizations must apply based on criteria established in 49 U.S.C. § 5116. Grantees are reimbursed for PHMSA-approved program expenses.

SECTION B - FEDERAL AWARD INFORMATION

B.1 Funding

This NOFO is subject to the availability of funds. PHMSA anticipates that $1,000,000 will be available for the FY 2023 HMEP Tribal grant program.

B.2 Period of Performance

The period of performance is 12 months from the effective date of the award. However, applicants may request up to 24 months if their project plans require additional time.

B.3 Type of Award

Discretionary grant award.

SECTION C - ELIGIBILITY INFORMATION

C.1 Eligible Applicants and Activities

The FY 2023 HMEP Tribal grant is open to federally recognized tribes and tribal nonprofit organizations such as intertribal consortiums. PHMSA adopts the definition of federally recognized tribes in 25 U.S.C. § 5304(e). As such, "Indian tribe" is defined as any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. For the purposes of this grant, "intertribal consortium" as defined by 25 CFR § 1000.2 is a partnership between two or more tribes that is authorized by the governing bodies of those tribes to apply for and receive assistance under this program.

Eligible grant projects/expenses include, but are not limited to:

- Commodity flow studies
- Tabletop exercises
- Emergency response plans (creation and updates)
- Hazmat response training
- Hazmat training drills
- Training equipment
- Hazmat training conferences
- Hazard mitigation plans
- Salaries/Fringe benefits for HMEP program administrators
- Supplies to conduct training and planning activities
- Contract support costs related to HMEP planning and training activities

C.2 Cost Sharing or Matching

In accordance with 49 U.S. Code § 5116(d), states and tribes must contribute a minimum of 20 percent matching share to the total cost of the grant project. The matching requirement must be satisfied by costs incurred by the grantee or by the value of in-kind contributions. All matching funds must meet the federal requirements as described in 2 CFR § 200.306 Cost sharing or matching. Funds or costs used for matching purposes under any other federal grant or cooperative agreement may not be used for HMEP matching purposes.

SECTION D - APPLICATION AND SUBMISSION INFORMATION

D.1 Address to Request Application Package

PHMSA requires applicants to apply electronically through grants.gov. Applicants must download the application package associated with this funding opportunity by following the directions provided on grants.gov.

To request a hard copy of the application package, please contact:

Hazardous Materials Grants Program
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave. SE, E23-446
Washington, DC 20590
E-mail: HMEP.grants@dot.gov
Phone: 202-366-1109
FAX: 202-366-3753

If you are a hearing-impaired person, please contact the FR/TTY at 1-800-877-8339 or e-mail PHMSA-Accessibility@dot.gov.

D.2 Content and Form of Application Submission

Applications for FY 2023 HMEP Tribal grant funding should be submitted in electronic format in grants.gov according to the following outline. There are two overall sections: (1) standard forms that the applicant must download and complete from grants.gov under the FY 2023 HMEP Tribal grant funding opportunity; and (2) attachments the applicant will need to create and upload.

Standard Forms

The following forms are found in grants.gov under the FY 2023 HMEP Tribal Grant Funding Opportunity and must be completed by the applicant.

1. Standard Form (SF)-424 – Application for Federal Assistance
2. SF-424A – Budget Information
3. Lobbying – Certification Regarding Lobbying.
4. Standard Title VI/Non-Discrimination Assurances – Civil Rights Assurances

Applicant Attachments

All required forms must be created by the applicant and uploaded to grants.gov under the FY 2023 Hazardous Materials Emergency Preparedness (HMEP) Tribal Grant Funding Opportunity.

Guidance for submitting the project narrative and budget narrative is listed in the following section.

1. HMEP Tribal Grant Application Form
   - Project Narrative attachment
   - Budget Narrative attachment
2. Indirect Cost Agreement and/or Statement claiming 10 percent de minimis (if applicable)
3. Letters of Support from partner organizations (if applicable)
4. Additional optional attachments (if applicable)

Applications should be well-written and free of mathematical errors in the line-item budget and budget narrative. Program narratives should have the sections clearly identified and follow the structure requested in this NOFO. The application forms and templates are available on grants.gov in the "Related Documents" tab with detailed instructions on the application process. Please also reference Section E to ensure that the application addresses the criteria on which PHMSA will evaluate.

Project Narrative

The following Project Narrative sections are required. To facilitate the application review and award process, clearly identify and submit each section in the order stated below.

1. **Cover Letter.** The letter should be provided from the governor designating the entity to receive federal funds if the designated entity has changed.

2. **Organization Information and Capacity.** Briefly provide information about your organization. This should include: (1) your organization's mission; (2) a brief overview of your organization's structure, programs, leadership, and special expertise; and (3) your organization's experience and capacity to manage federal financial assistance programs.
3. **Contact Information.** In Part A of the HMEP Tribal grant form, identify the designated project director, including the name, position, address, e-mail address, and telephone number, who will coordinate the funded activities. Additionally, identify authorized individuals who will accept the award grant document, as well as individuals responsible for the submission of required federal financial reports.
4. **Transportation Fees.** In Part B of the application form, identify whether the tribe or tribal organization assesses and collects fees on the transportation of hazardous materials and what percentage of the fees collected are used solely to carry out purposes related to the transportation of hazardous materials.

5. **Planning and Training Needs Assessment.** In Part C of the application form, describe the current capacity and any areas of deficiency as it concerns preparedness for the

transportation of hazardous materials. This may include: (1) a discussion of whether the applicant has identified a need to assess transportation flow patterns of hazardous materials within its jurisdiction; (2) the number of hazmat preparedness plans that need updating; (3) the location and need for exercises involving preparation for incidents involved in transporting hazardous materials; (4) the number of responders needing training and the number of persons currently trained in other disciplines of response functions (e.g., number of firefighters, Emergency Medical Technicians (EMTs), Emergency Medical Services (EMSs), etc.) who need this training.

6. **Goals and Objectives.** In section three of Part C of the application form, list the program goals and objectives for the HMEP Tribal grant funds. In addition, applications should include long-term program objectives.

   ***Note:** Outputs must be completely defined. Provide quantifiable and measurable outputs planned for the grant's period of performance. Outputs are quantitative data that describe the proposed activities. For delivery of hazmat training courses, outputs should include: (1) number and type of course(s); (2) the number of projected students trained for each course; and (3) number of contact hours for each course.

7. **Planning and Training Activities.** In sections four and five of Part C in the application form, list and describe the proposed HMEP project activities to be undertaken during the period of performance. Provide the estimated cost of each activity and the projected start/end date. Also include whether the activities will be located in or benefit an underserved community using DOT's Transportation Disadvantaged Census Tracts (arcgis.com) tool. Each activity should correlate to the goals listed.

8. **Monitoring.** In section six of Part C of the application, provide a description of the monitoring and evaluation of the activities that will be conducted to ensure that the grant activities are successfully carried out according to the activity timeline. Include an explanation of quality control measures, including but not limited to random examinations, inspections, and audits of planning activities, to maximize the cost effectiveness and impact of the program.

9. **Statement of auditable accounting system.** In Part E of application form, certify that the person authorized to provide training agrees to have an auditable accounting system.

10. **Statement of aggregate expenditures.** In Part E of application form, certify that the aggregate expenditures for hazardous materials incident preparedness training and planning activities (exclusive of federal funds) will not fall below the average level of its expenditures for its last five fiscal years.

11. **Statement of 75 percent programmatic requirement.** In Part E of application form, certify that 75 percent of grant funding will be used for HMEP programmatic activities

and no more than 25 percent of federal funding will be used for maintenance and administration costs (M&A).

12. **Tribal Emergency Response Commission (TERC) review of grant application.** In Part E of the application form, certify that all members of the TERC were provided the opportunity to review the grant application.

13. **Safety.** Applicants must address how their project provides substantial safety benefits. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should include how their project will not negatively impact the overall safety of the traveling public.

14. **Equity.** Applicants are encouraged to use DOT's Transportation Disadvantaged Census Tracts (arcgis.com)[1] tool or equivalent tools in their assessment. Applicants should demonstrate how preparedness activities will occur throughout a grant's life cycle and to the extent possible, target low-income communities, disadvantaged communities, communities underserved by affordable transportation, or overburdened communities. Applicants should address how grant program activities will benefit or improve safety.

Budget Narrative

The budget narrative explains how each budget component supports the cost of the proposed work. The budget narrative should focus on how each budget item is required to achieve the proposed project goals and objectives and justify how budget costs were calculated. Using the object class categories found on the SF-424A, explain why the amount is needed for each category in the project narrative. The budget narrative must correlate with the costs identified in the SF-424A line-item budget. Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other federal funds, if any, that the applicant intends to use. Funding sources should be grouped into three categories: non-federal, PHMSA specific, and other federal with specific amounts from each funding source.

The budget narrative should be clear, specific, detailed, mathematically correct, and correspond to the SF-424A line-item categories.

A well-developed budget narrative is an effective monitoring tool for both the awarding agency and grant recipient. However, a budget narrative that does not represent a project's needs makes it difficult to recommend for full funding and to assess financial performance over the life of the project. A description of the object class categories is provided below:

[1] https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a

1. **Personnel** costs are the employee salaries for those working directly on the grant project. Include the number, type of personnel, the percentage of time dedicated to the project, hourly wage (or salary), and total cost to the grant.

2. **Fringe Benefit** costs are the allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe costs are benefits paid to employees, including the cost of employer's share of FICA, health insurance, workers' compensation, and vacation. Include how the fringe benefit amount is calculated (i.e., actual fringe benefits estimate, approved rate, etc.) Include a description of specific benefits charged to a project and the benefit percentage. Additional considerations:

    - The personnel salaries should have corresponding fringe and vice-versa. PHMSA cannot pay fringe benefits for a position that is not listed in the "Personnel" section.
    - Explain what is included in the benefit package and at what percentage.
    - Fringe benefits are only for the percentage of time devoted to the grant project.
    - The applicant must not combine the fringe benefit costs with direct salaries and wages in the personnel category.

3. **Travel** costs are those costs requested for field work or travel to professional meetings associated with grant activities. Provide the purpose, method of travel, number of persons traveling, number of days, and estimated cost for each trip. If the details of each trip are not known at the time of application submission, provide the basis for determining the amount requested.

4. **Equipment** costs include those items that are tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit, unless the applicant has a clear and consistent written policy that determines a different threshold. Include a description, quantity, and unit price for all equipment.

- Purchases of less than $5,000 should be listed under "Supplies" or "Other."
- Each item of equipment must be identified with the corresponding cost. General-purpose equipment must be justified as to how it will be used on the project.
- Analyze the cost benefits of purchasing versus leasing equipment, particularly high-cost items and those subject to rapid technical advances. Depending upon the procurement method, list rented or leased equipment costs in the "Contractual" or "Other" category.

5. **Supplies** are tangible personal property other than equipment. Include the types of property in general terms. It is not necessary to document office supplies in detail (for example: reams of paper, boxes of paperclips, etc.). However, applicants should include a quantity and unit cost for larger cost supply items such as computers and printers.

6. **Contractual** costs are those services carried out by an individual or organization, other than the applicant, in the form of a procurement relationship.

7. **Other** costs that do not fit any of the categories include rent for buildings used to conduct project activities, utilities, leased equipment, employee training tuition, etc. "Other" direct costs must be itemized.

8. **Indirect Costs** (if applicable, must include IDC agreement or statement claiming de minimis rate): Indirect costs are allowable under the HMEP grant. Indirect costs are incurred for common or joint objectives that benefit more than one project. The applicant must include a current and fully executed IDC agreement in the application, if claiming indirect costs. The rate must be applied to the appropriate base in the approved agreement. If the rate will not be approved by the application due date, attach the letter of renewal or letter of request that you sent to your cognizant agency to your application. If the applicant has never received or has an expired indirect cost rate agreement, the applicant may be eligible for the 10 percent de minimis rate provided by 2 CFR § 200.414. A nonprofit entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10 percent of modified total direct costs, per 2 CFR § 200.414, which may be used indefinitely. Applicants intending to charge the de minimis rate must include a statement verifying that the organization has never received a negotiated indirect cost rate and that the organization has elected to charge the de minimis rate.

Sharing of Application Information – Except for the information properly marked as described in Section H, the Department may share application information within the Department or with other federal agencies if the Department determines that sharing is relevant to the respective program's objectives.

D.3 Unique Entity Identifier (UEI) and System for Award Management (SAM)

PHMSA may not make an award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time PHMSA is ready to make an award, PHMSA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant. PHMSA recommends that applicants review the SAM database at www.sam.gov/portal/public/SAM/ to ensure that their UEI is updated.

Each applicant is required to:

- Register in SAM (SAM.gov) before submitting its application.
- Provide a valid UEI number in its application.

- Maintain an active SAM registration and UEI with current information when it has an active federal award or an application under consideration.

D.4 Submission Dates and Times

Completed applications must be received electronically by 11:59 p.m. EST on May 5, 2023. If an applicant has technical difficulties submitting the application through grants.gov, that applicant should contact grants.gov at 800-518-4726 or e-mail support@grants.gov, as well as contact the Grants Program Office by phone at 202-366-1109 or e-mail HMEP@dot.gov. Applications received after this deadline may not be considered.

D.5 Funding Restrictions

The following costs are not eligible for reimbursement under the FY 2023 HMEP Tribal grant:

1. Fees for the state and local personnel receiving training
2. Entertainment, alcohol, or morale costs
3. Excessive costs for general office supplies, equipment, computer software, printing, and copying
4. Expenses not related to the transportation of hazardous materials
5. Expenses claimed and or reimbursed by another program
6. Expenses counted as match funds toward another federal program
7. Expenses that supplant existing operational funds/programs
8. Any costs disallowed or stated as ineligible in 2 CFR Part 200
9. Pre-award costs are not permitted without PHMSA's prior approval consistent with 2 CFR § 200.458

*Please note, the HMEP program now allows costs such as overtime, backfill, and stipends if the costs follow the HMEP Guidance on Backfill, Overtime and Stipends.

D.6 Other Submission Requirements

Applications will only be accepted via grants.gov. Mail and fax submissions will not be accepted.

The application package contains all required electronic forms and the ability to upload attachments for the budget narrative, budget justification, project narrative, assurances, and certifications. The applicant must submit the information outlined in the Application Guide in addition to the program-specific information below.

To begin the process, applicants must be registered with www.grants.gov to apply. It is highly recommended that applicants begin the registration process as soon as possible to avoid delays with submission. Failure to comply with the application requirements as described in this section may result in the failure of an application to be reviewed.

Accessing Grants

1. **Grants.gov.** For new users, go to http://www.grants.gov/web/grants/applicants.html or go to the main page at http://www.grants.gov/ and select "Register." New user registrations for grants.gov can take up to two weeks to complete. For additional questions on how to register, contact grants.gov support at 800-518-4726 or e-mail support@grants.gov.

2. **FedConnect.** Applicants are encouraged to register for an account with FedConnect at www.fedconnect.net before applying. Your organization's Marketing Partner ID Number (MPIN), which can be retrieved from SAM, is required to create an account. For instructions on how to register in FedConnect and how it works, click on the link to access the *FedConnect: Ready, Set, Go! Tutorial*. For other technical issues or questions, either e-mail fcsupport@unisonglobal.com or call 1-800-899-6665., option 2. The FedConnect Support Center is staffed Monday–Friday, 8 a.m.–8 p.m., EST, except federal holidays.

SECTION E - APPLICATION REVIEW INFORMATION

E.1 Criteria

PHMSA will evaluate applications through administrative, technical, and programmatic reviews based on the evaluation criteria.

Merit Criteria:

PHMSA developed evaluation criteria to rate and select competing applications. Submission of an application is not a guarantee of award. PHMSA may, at its discretion, award a grant based on an application in its entirety, award only portions of a grant based on its application, or not award a grant at all.

1. Technical Criteria

- Does the application contain a planning and training needs assessment that identifies the current capacity and any areas of deficiency as it concerns preparedness for the transportation of hazardous materials?
- Does the application list the program goals and objectives for the grant funds?
- Does the application contain planning and training activities that align with the HMEP grant program guidelines?
- Do the activities listed appear to be allowable, allocable, necessary, and reasonable?

- Does the application adequately describe the proposed activities?
- Does the application provide costs and a reasonable timeline of proposed grant activities?
- Does the application provide a description of the monitoring and evaluation of the proposed activities?

2. Programmatic Criteria

- Does the applicant provide an explanation of whether fees are assessed and collected for the transportation of hazardous materials, and if so, are the fees used only to carry out a purpose related to transporting hazardous material?
- Does the applicant provide a statement certifying that the person authorized to provide training agrees to have an auditable accounting system?
- Does the applicant provide a statement certifying that 75 percent of grant funding will be used for HMEP programmatic activities, and no more than 25 percent of federal funding will be used for maintenance and administration costs (M&A)?
- Does the applicant provide a statement indicating that all members of the Tribal Emergency Response Commission (TERC) were provided the opportunity to review the grant application?
- Does the applicant provide the types and amounts of hazardous material transported in the state or on such land?
- Does the applicant provide the past record of the state effectively managing planning and training grants?
- Does the applicant direct funds of activities to underserved communities?
- Did the applicant provide a completed and properly filled out SF-424 form?
- Did applicant submit a completed lobbying form and Title VI form?
- Do the budget (SF-424A) and budget narrative align?
- Does the budget narrative provide detail as to how the costs under "Personnel" correspond to the staff included in the narrative and how they were calculated?
- Does the budget narrative provide an explanation or breakout of the staff "Fringe Benefits?"
- If there are funds entered under "Travel", does the budget narrative provide a clear and reasonable explanation that relates to the costs?
- Does the budget narrative identify supply costs and are the costs adequately explained?
- If there are funds under "Contractual," does the budget narrative clearly describe how contractual costs were derived for each agreement or subaward?

- If there are costs under “Other,” have the costs been reasonably explained?
- If indirect costs are requested, does the application/budget narrative include an approved, current Indirect Cost Rate agreement or statement claiming the 10 percent de minimis rate?

Additional Considerations:

1. Safety – Applicants must address how their proposed grant funded activities provide substantial safety benefits.

2. Equity – Applicants must address the unique challenges that rural, underserved areas, and/or Tribal communities face related to economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT’s Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative). Potential applicants may find it useful to utilize one of the federal tools to determine disadvantaged community status available at https://www.transportation.gov/grants/dot-navigator/federal-tools-determine-disadvantaged-community-status

E.2 Review and Selection Process

1. **Administrative Review:** PHMSA will conduct an administrative review to ensure the application meets the eligibility criteria outlined in Section C on Eligibility Information. Each application will be reviewed for completeness to ensure it includes all the required elements to qualify for the grant. If the application does not meet the required elements, then the application is likely to be rejected.
2. **Technical Review:** PHMSA will conduct a technical review of the application to assess how the proposed work is to be performed and whether the application(s) addresses the applicable program requirements (i.e., performance measurement, methodology, and technical merit). PHMSA reserves the right to use outside expertise to perform application evaluation. PHMSA will utilize the technical review criteria in Section E.1 to determine how the applications address the needs for outreach and training.
3. **Programmatic Review:** PHMSA will conduct a programmatic review to assess programmatic factors identified in Section E.1. Programmatic factors are those factors that are relevant and essential to the process of selecting applications that best achieve the program’s objectives, in accordance with applicable statutes, regulations, policies, and guidelines. Other programmatic factors may include history of performance, program priorities, and other modal needs. For applicants with existing awards, PHMSA may consider award balances when making final funding decisions.

Rating Guidelines

Based on these results from each review, each application will receive an overall rating either as:

Highly Recommended - The application demonstrates that the NOFO requirements are very well understood, and the approach will likely result in a very high-quality performance. The application clearly addresses and exceeds requirements with no weaknesses. The application contains outstanding features that meet or exceed, on multiple dimensions, the expectations of the government. The application scope aligns very well with DOT objectives and priorities. The risk of poor performance is very low.

Recommended - The application demonstrates that the NOFO requirements are understood, and the approach will likely result in satisfactory performance. The application addresses and meets requirements with some minor but correctable weaknesses. The application demonstrates requisite experience, qualifications, and performance capabilities. The application scope aligns with DOT objectives and priorities. The risk of poor performance is low.

Acceptable - The application demonstrates that the NOFO requirements are mostly understood, and the approach will likely result in satisfactory performance for part of the requirements. The application addresses some of the requirements with some weaknesses. The application demonstrates some experience, qualifications, and/or performance capabilities. The application partially aligns with DOT objectives and priorities. The risk of poor performance is moderate.

Not Acceptable - The application does not meet the NOFO requirements. The application fails to address many requirements. The applicant may be ineligible to apply for the grant. The application could not satisfy critical requirements without a major revision and/or a rewrite of the application or a major redirection effort. The application scope does not align with DOT objectives and priorities. The risk of poor performance is high.

Selection Process

PHMSA will recommend applications for award based on the final overall rating as described above. Final award recommendations will be made by PHMSA's Associate Administrator for the Office of Hazardous Materials Safety after taking into consideration recommendations made during the administrative, technical, and programmatic reviews and how well the applications address PHMSA's safety priorities. The PHMSA Administrator will make final award selection decisions.

***Please note that to comply with the requirements of 2 CFR Part 200, Subpart E, and DOT's Guide to Financial Assistance, PHMSA's Agreement Officers and Grant Specialists may request additional information pertaining to your application during the application review and evaluation process.**

E.3 FAPIIS Review

1. **FAPIIS Review:** Prior to making an award, PHMSA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. § 2313). An applicant may review and comment on any information that a federal awarding agency previously entered in the system and is accessible through SAM. PHMSA will consider the applicant's comments, business integrity, ethics, record of performance under federal awards, and other information in the performance system when making a judgement about their review of risk as described in 2 CFR § 200.205.

E.4 Anticipated Announcement and Federal Award Dates

Applicants chosen for funding will receive electronic notification of the federal award. Upon notification, the applicant's authorized official must sign and return the award within the timeframe prescribed by PHMSA. PHMSA plans to make awards by July 31, 2023, with a proposed period of performance start date of August 1, 2023.

SECTION F - FEDERAL AWARD ADMINISTRATION INFORMATION

F.1 Federal Award Notices

PHMSA's grant awarding official will award grants to responsible and eligible applicants, at its discretion, whose applications are judged most meritorious under the procedures set forth in this NOFO. All funds provided by PHMSA must be expended solely for the purpose for which the funds are awarded in accordance with the approved application and budget, regulations, terms and conditions of the award, applicable federal cost principles, and DOT's financial assistance regulations. Funds may not be used for lobbying or litigation.

The grant award, signed by both the PHMSA Agreement Officer and the recipient's Authorized Representative, is the authorizing document and will be provided through electronic means to the Authorized Representative. The award document will provide pertinent instructions and information including, at a minimum, the following:

1. The legal name and address of recipient
2. Title of project
3. Name(s) of key personnel chosen to direct and control approved activities

4. Federal Award Identification Number assigned by PHMSA
5. Period of Performance, specifying the duration of the project
6. Total amount PHMSA approved for the project
7. Legal authority under which the award is issued
8. Assistance Listing Program Number (formerly CFDA)
9. Applicable award terms and conditions
10. Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the award
11. Other information or provisions deemed necessary by PHMSA

F.2 Administrative and National Policy Requirements

The administration of this award by PHMSA and the Recipient will be based on the following federal statutory and regulatory requirements:

1. The authorizing language of 49 U.S.C. § 5116.
2. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
3. The Recipient must comply with 49 CFR Part 20, "New Restrictions on Lobbying." 49 CFR Part 20 will be incorporated by reference into any award under this program and is available at www.ecfr.gov/ by clicking on Title 49 CFR Part 20.
4. Civil Rights and Title VI - As a condition of a grant award, grant recipients will demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR Part 21); the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act; and all other civil rights requirements and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. DOT's and the applicable Operating Administrations' Office of Civil Rights will work with awarded grant recipients to ensure full compliance with federal civil rights requirements.
5. The Recipient must comply with 49 CFR Part 32, "Government-wide Requirements for Drug Free Workplace (Financial Assistance)," which implements the requirements of Public Law 100-690, Title Subtitle D, "Drug-Free Workplace Act of 1988." 49 CFR Part 32 will be incorporated by reference into any award under this program and is available at: www.ecfr.gov/ by clicking on Title 49 CFR Part 32.
6. Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Throughout the Federal Government.

F.3 Reporting Requirements

Progress Reports – Each grant recipient is required to submit a progress report to show progression of approved projects and activities. The reports must follow the instructions outlined in the terms and conditions of the grant award. Grant recipients with a 12- or 24-month period of performance are required to submit an annual progress report and follow the instructions outlined in the terms and conditions of the grant award.

Federal Financial Reports – Each grant recipient is required to submit a Federal Financial Report (SF-425) to show a cumulative account of expenditures from approved activities. Grant recipients with a 12- or 24- month period of performance are required to submit a biannual annual federal financial report and must follow the instructions outlined in the terms and conditions of the grant award.

Final Reports – Each recipient is required to submit a final Federal Financial Report (SF-425) and final performance report. Final reports are to be submitted no later than 120 days after the project period end date. Final reports must follow the instructions outlined in the terms and conditions of the grant award.

All applications and reports will be made available to the public upon request.

Performance and Program Evaluation: As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. DOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges federal awarding agencies and federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, improve equitable delivery, and elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” 5 U.S.C. § 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200). This paragraph does not authorize pre-award costs and grant recipients must separately obtain PHMSA’s written approval to fund pre-award costs consistent with 2 CFR § 200.458.

SECTION G - FEDERAL AWARDING AGENCY CONTACTS

Questions related to the content of this funding opportunity should be submitted to the points of contact below or e-mail HMEP.grants@dot.gov.

Agreement Administrator
Dwayne Cross
Phone: 202-366-4429
E-mail: Dwayne.Cross@dot.gov

Program Contact
Carla Sheppard
Phone: 202-366-1109
E-mail: Carla.Sheppard@dot.gov

SECTION H – OTHER INFORMATION

Given the complexity of some aspects of the application process, technical assistance is available to rural applicants and inexperienced or under-resourced applicants to help with the application process. The program point of contact listed in Section G for technical assistance.

Protection of Confidential Business Information - All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it “Contains Confidential Business Information (CBI);” (2) mark each page that contains confidential information with “CBI;” (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. DOT will protect confidential information complying with these requirements to the extent required under applicable law. If DOT receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, DOT will follow the procedures described in its FOIA regulations at 49 CFR § 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

Information and resources regarding DOT’s discretionary grant programs relevant to disadvantaged communities can be found on DOT’s Transportation Disadvantaged Census Tracts (arcgis.com) tool.[2]

[2] https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a

Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Hazardous Materials Grants

Grant and Cooperative Agreement
Terms and Conditions

Table of Contents

1. **Definitions**
    a) **Recipient** – A Non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term "recipient" does not include subrecipients.
    b) **Program Authorizing Official (PAO) –** The PAO is the delegated authority to execute the grant agreement. Should any changes to the scope, budget, schedule, or any other terms become necessary, the PAO in coordination with the AO has the authority to amend the award agreement.
    c) **Agreement Officer (AO) –** The AO has the authority to obligate the Government to the expenditures of Federal funds under this award.
    d) **Grant Specialist (GS) –** The GS is responsible for the daily administration of the award. The GS is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligates the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
    e) **Recipient Authorized Grantee Official –** The individual with the Recipient organization who has authority to bind the organization legally and financially. It is the Recipient's responsibility to follow their agency's policies and procedures for ensuring that authorized officials are up to date, sign the grant agreement, and endorse any prior approval actions.
    f) **Recipient Project Director –** The individual designated by the recipient who is responsible for the technical direction of the program or project.

2. **Recipient Responsibilities**
In accepting a PHMSA 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.

3. **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 PHMSA determines that noncompliance by the Recipient cannot be remedied by imposing additional conditions, PHMSA 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 Federal award.
    d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180.
    e) Withhold further Federal awards for the project or program.
    f) Take other remedies that may be legally available.

4. **Order of Precedence**
Any inconsistency or conflict in the terms and conditions specified in this award will be resolved according to the following order of precedence:

a) The Federal statute authorizing this award or any other Federal statutes, laws, regulations, or directives directly affecting performance of this award.
b) Terms and Conditions of this award.

5. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)**
The recipient (and any subrecipients) must comply with these requirements including the cost principles which apply to the recipient, and the audit requirements the recipient must follow. A recipient who expends $750,000 or more of federal funds, in the recipient's fiscal year, must have an audit conducted.

2 CFR 200 is incorporated by reference into this award

6. **Restrictions on Use of Funds for Lobbying, Support of Litigation, or Direct Advocacy**
The Recipient and its contractors may not use grant funds for lobbying in direct support of litigation, or in direct advocacy for, or against, a pipeline construction or expansion project.

The Recipient and its contractors may not conduct political lobbying, as defined in the statutes, regulations, and 2 CFR 200.450– "Lobbying," within the Federally-supported project. The Recipient and its contractors may not use Federal funds for lobbying specifically to obtain grants and cooperative agreements. The Recipient and its contractors must comply with 49 CFR 20, U.S. Department of Transportation "New Restrictions on Lobbying."

49 CFR 20 is incorporated by reference into this award.

7. **Nondiscrimination**
The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient must comply with 49 CFR 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964"

49 CFR 21 is incorporated by reference into this award.

To ensure that all Recipients of PHMSA funds are aware of their responsibilities under the various civil rights laws and regulations, the PHMSA Office of Civil Rights has developed an information tool and training. These documents are found on the PHMSA website at https://www.phmsa.dot.gov/about- phmsa/civil-rights/grant-recipient-information. If you should have any questions concerning your responsibilities under the External Civil Rights Program, please contact Rosanne Goodwill, Civil Rights Director, at 202-366-9638 or by e-mail at rosanne.goodwill@dot.gov.

8. **Government-wide Debarment and Suspension (Non-procurement)**
The Recipient must review the "list of parties excluded from federal procurement or non-procurement programs" located on the System for Award Management (SAM) website before entering into a sub-award. https://www.sam.gov No sub-award may be issued to an

entity or person identified in the "list of parties excluded from federal procurement or non-procurement programs."

2 CFR 1200 "Non-procurement Suspension and Debarment" is incorporated by reference into this award.
The Recipient must inform the PAO if the recipient suspends or debars a sub-awardee.

9. Drug-Free Workplace
The Recipient must comply with the provisions of Public Law 100-690, Title V, Subtitle D, "Drug-Free Workplace Act of 1988," which require the Recipient to take steps to provide a drug-free workplace. The Recipient must comply with **49 CFR 32**, "Government-wide Requirements for Drug Free Workplace (Financial Assistance)" which is incorporated by reference into this award.

10. eInvoicing (PHMSA June 2018)
Recipients of PHMSA grants and cooperative agreements must use the DOT Delphi eInvoicing System.

a) Recipients' Requirements:
Recipients must:

i. Have internet access to register and submit payment requests through the Delphi eInvoicing system;
ii. Submit payment requests electronically and receive payment electronically.

b) **System User Requirements**:

i. Contact the assigned grant specialist directly to sign up for the system. PHMSA will provide the recipient's name and email address to the DOT Financial Management Office. The DOT Financial Management Office will then invite the recipient to sign up for the system;
ii. DOT will send the recipient a User Account Application form to verify identity. The recipient must complete the form and present it to a Notary Public for verification. The recipient will return the notarized form as follows:

Via U.S. Postal Service (certified):
DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125

Via FedEx or UPS:
DOT Enterprise Services Center
MMAC-FAA/ESC/AMZ-150
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169

Note: Additional information, including training materials, and helpdesk support can be found on the DOT Delphi eInvoicing website (http://www.transportation.gov/cfo/delphi-einvoicing-system.html)

c) Waivers

DOT Financial Management officials may, on a case by case basis, waive the requirement to register, and use, the electronic payment system. Waiver request forms can be obtained on the DOT eInvoicing website (http://www.transportation.gov/cfo/delphi-einvoicing-system.html) or by contacting the PHMSA Agreement Officer. Recipients must explain why they are unable to use or access the internet to submit payment requests.

11. Payments

Reimbursement payments will be made after the electronic receipt via the DOTeInvoicing System of "Request for Advance or Reimbursement" (Standard Form SF-270).

a) Method of payment
   - **i)** The Government will make all payments under this agreement by electronic funds transfer (EFT), except as provided by paragraph (a)(ii) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
   - **ii)** If the Government is unable to release one or more payments by EFT, the Recipient agrees either to –
     - i) Accept payment by check or some other mutually agreeable method of payment; or
     - ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph d. of this clause).

b) Recipient's EFT information. The Government will make payment to the Recipient using the EFT information contained in the System for Award Management (SAM) database. If the EFT information changes, the Recipient is responsible for providing the updated information into the System for Award Management (SAM) at: https://www.sam.gov

c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

d) Suspension of payment. If the Recipient's EFT information in the SAM database is incorrect, the Government is not obligated to make payment to the Recipient under this agreement until the correct EFT information is entered into the SAM database. An invoice or agreement-financing request is not a proper invoice for the purpose of prompt payment under this agreement.

e) Recipient EFT arrangements. If the Recipient has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Recipient has not notified the Government of the payment receiving point applicable to this agreement, the Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the SAM database.

f) Liability for uncompleted or erroneous transfers.
   - **i)** If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for –
     - i) Making a correct payment;
     - ii) Paying any prompt payment penalty due; and

iii) Recovering any erroneously directed funds.

ii) If an uncompleted or erroneous transfer occurs because the Recipient's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and –

i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Recipient is responsible for recovery of any erroneously directed funds; or

ii) If the funds remain under the control of the payment office, the Government will not make payment, and the provisions of paragraph d. of this clause apply.

g) EFT and prompt payment. A payment will have been made in a timely manner in accordance with the prompt payment terms of this agreement if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

h) EFT and assignment of claims. If the Recipient assigns the proceeds of this agreement, the Recipient must require, as a condition of any such assignment, that the assignee register in the SAM database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause will apply to the assignee as if it were the Recipient. EFT information that shows the ultimate recipient of the transfer to be other than the Recipient, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph d. of this clause.

i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Recipient's financial agent.

j) Payment information. The payment or disbursing office will forward to the Recipient available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Recipient to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph a. of this clause, the Government will mail the payment information to the remittance address contained in the SAM database.

12. Advance Payment

49 CFR § 110.50 authorizes PHMSA to issue advance payments to grant recipients. Recipient must receive prior approval from PHMSA and must meet the required criteria for advance payments be made.

a) Recipient must possess financial management systems that meet the standards for fund control and accountability as established in 2 CFR 200.302 for awards issued after that date. Recipient must ensure that advance payment requests are limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements in carrying out the purpose of the approved program or project.

b) Recipient must deposit and maintain advance payments in insured accounts whenever possible unless the recipient receives less than $120,000 in federal awards from all sources or can demonstrate the best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year on Federal cash balances. $250 for awards issued prior to December 26, 2014.

c) Recipient submits advance payments based on cash payment needs and not accrued liabilities.
d) Recipient must remain in compliance with the terms and conditions of their award.
e) Recipient is not indebted to the United States Government.
f) Recipient's SAM.gov registration is current and active at the time of the advance payment request.
g) The recipient maintains supporting documentation in their files and makes them available upon request to PHMSA in order to determine if the costs adhere to the applicable cost principles, statutes and regulations. PHMSA will also monitor to ensure grantee has not requested advance payments beyond immediate disbursing needs and that excess balances were promptly returned to the Treasury.

13. Advance Payment Process

To request an advance payment, log into the DOT Electronic Payment System (Delphi E-Invoicing), create and submit a standard invoice, and complete an SF270 form with the Advance Payment Request. This process is similar to requesting a reimbursement. The grant specialist assigned to your account will receive an email generated from the system with the invoice details.

a) Advance payments must be fully disbursed (example: checks written, signed, and issued to the payees) within 30 days of the date you receive the advance funds from the U.S. Treasury.
b) Advance payment requests should be submitted no earlier than 10 business days prior to the beginning of the period for which the funds are requested.
c) PHMSA will check for all of the following criteria:
   i. Your award balance is sufficient to meet the advance amount requested.
   ii. Evaluations will be based on cash payments and not on accrued liabilities.
   iii. You have satisfied program requirements including submission of required federal financial reports for prior quarters/periods.
   iv. The request is for allowable expenditures.

14. 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 the Federal award, *and only with the written approval of the Program Authorizing Official or delegate.*

b) The Recipient must submit any proposed change, that requires PHMSA's written approval, 30 days prior to the requested effective date of the proposed change. PHMSA will not approve any change to the award during the last 30 days of the award period.

15. Prior Approvals

a) The following expenditures require the PAO's advance written approval:
   - **i)** Changes in the scope, objective, or key personnel referenced in the Recipient's proposal.
   - **ii)** Change in the project period. PHMSA must receive this request no later than 30 calendar days prior to the end of the project period. The Recipient must submit a revised budget indicating the planned use of all unexpended funds during the extension period.

b) The Recipient must submit a revised financial estimate and plan for i) and ii) above.

c) The PHMSA will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved.

16. Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas

a) It is the Department of Transportation (DOT) policy to award a fair share of contracts to small businesses, small minority-disadvantaged business, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HubZone. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its Grants and Cooperative Agreements to take affirmative steps to ensure such fairness on the awarding of any subcontracts.

b) The Recipient and any Sub-recipients are encouraged to take all necessary affirmative steps to assure that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone are used when possible.

c) Affirmative steps include:
   - **i)** Placing qualified small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone on solicitation lists;
   - **ii)** Assuring that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HUBZone are solicited whenever they are potential sources;
   - **iii)** Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone;
   - **iv)** Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and using the services and assistance of the U.S. Small Business Administration and the Office of the Small and Disadvantaged Business Utilization of the Department of Transportation, as appropriate.

17. Seat Belt Use Policies and Programs

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at www.trafficsafety.org.

18. Ban on Text Messaging While Driving

a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

"Driving"-

i) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

ii) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

"Text messaging" --- means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b) In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and subrecipients of grants and cooperative agreements are encouraged to:

1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving--

i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as-

i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

c) *Assistance Awards.* All recipients and subrecipients of financial assistance to include: grants, cooperative agreements, loans and other types of assistance, shall insert the substance of this clause, including this paragraph (c), in all assistance awards.

19. Rights in Technical Data

Rights to intangible property under this agreement are governed in accordance with **2 CFR 200.315** - "Intangible Property."

20. Notice of News Releases, Public Announcements, and Presentations

The Recipient must have the PAO's prior approval for all press releases, formal announcements, or other planed written issuance containing news or information concerning this Agreement before issuance.

21. Violation of Award Terms

If the Recipient has materially failed to comply with any term of the award, the PAO may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances.

22. Reporting Fraud, Waste, or Abuse

The DOT Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. The number is: (800) 424-9071.

The mailing address is:
DOT Inspector General Hotline
1200 New Jersey Ave SE
West Bldg 7th Floor
Washington, DC 20590
Email: hotline@oig.dot.gov
Web: http://www.oig.dot.gov/Hotline

23. Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA Oct, 2010)

a) ***Definitions***. As used in this provision:

"Executive" means an officer or any other employee in a management position.

"First-tier sub-award" means an award issued directly by the prime Awardee to a sub-awardee to provide support for the performance of any portion of the substantive project or program for which the award was received. A sub-award includes an agreement that the prime Awardee or a sub-awardee considers a contract.

"Total compensation" means the cash and noncash dollar value earned by the executive during the Awardee's preceding fiscal year and includes the following:

i) Salary and bonus.

ii) Awards of stock, stock options, and stock appreciation rights.

iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.

iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v) Above-market earnings on deferred compensation which is not tax-qualified.

vi) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

b) ***System for Award Management (SAM).*** As a recipient of a Federal award you are required to register in the System for Award Management (SAM) at: https://www.sam.gov

c) ***Notification to Sub-Awardees.*** Awardees are required to report information on sub-awards. The law requires all reported information be made public; therefore, the Awardee is responsible for notifying its sub-awardees that the required information will be made public.

d) ***Reporting of First-Tier Sub-Awards.*** By the end of the month following the month of award of a first-tier sub-award with a value of $25,000 or more, the Awardee shall report the information below at http://www.fsrs.gov for each first-tier sub-award. (The Awardee shall follow the instructions at http://www.fsrs.gov to report the data.) If the Awardee, in the previous tax year, had gross income from all sources under $300,000, the Awardee is exempt from the requirement to report subcontractor awards. If a sub-awardee, in the previous tax year had gross income from all sources under $300,000, the Awardee does not need to report awards made to that sub-awardee.

i) Unique Entity Identifier (The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.govnumber) for the sub-awardee receiving the award, and for the sub-awardee's parent company, if the sub-awardee has a parent company.
ii) Name of the sub-awardee.
iii) Amount of the sub-award.
iv) Date of the sub-award.
v) A description of the effort being provided under the sub-award, including the overall purpose and expected outcome or result of the sub-award.
vi) Sub-award number (assigned by the Awardee).
vii) Sub-awardee's physical address including street address, city, state, country, 9-digit zip code, and congressional district.
viii) Sub-awardee's primary performance location including street address, city, state, country, 9-digit zip code, and congressional district.
ix) The prime award number (assigned by PHMSA)
x) Awarding agency name. (PHMSA)
xi) Funding agency name. (PHMSA)
xii) Government awarding office code. (56)
xiii) Treasury account symbol (TAS) as reported in Federal Assistance Award Data System.

xiv) The applicable North American Industry Classification System (NAICS) code.

e) ***Reporting Executive Compensation of Awardee.*** If the Awardee, in the previous tax year, had gross income from all sources under $300,000, the Awardee is exempt from the requirement to its executive compensation.

By the end of the month following the month of receipt of a prime award, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for the Awardee's preceding completed fiscal year at https://www.sam.gov if, in the Awardee's preceding fiscal year, the Awardee received:

i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

ii) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

f) ***Reporting Executive Compensation of Sub-Awardees.*** If the Awardee, in the previous tax year, had gross income from all sources under $300,000, the Awardee is exempt from the requirement to report the executive compensation of sub-awardees. If a sub-awardee, in the previous tax year had gross income from all sources under $300,000, the Awardee does not need to report the executive compensation of that sub-awardee.

By the end of the month following the month of a first-tier sub-award with a value of $25,000 or more, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for each first-tier sub-awardee for the sub-awardee's preceding completed fiscal year at http://www.fsrs.gov, if in the sub-awardee's preceding fiscal year, the sub-awardee received:

i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

ii) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

24. 811, Call Before You Dig Program (PHMSA June 2014)

Damage to pipelines during excavation is a leading cause of accidents resulting in serious injuries and fatalities, but these accidents are preventable, and you can help in preventing them.

811 is designated as the national call-before-you-dig number. Every state has a one-call law requiring excavators to have underground utilities marked before digging.

There are five steps to safer digging:

1) Make a free call to 811 a few days before digging.

2) Wait the required time – which is prescribed in state law but generally two to three days.

3) Locate/mark the utilities accurately. (This step applies to underground facility/utility owners.)

4) Respect the marks.

5) Dig with care.

The recipient is encouraged to adopt the "811, Call Before You Dig" program for its employees when digging on company-owned, leased, or personally owned property. For information on how to implement such a program please visit the *811 – Call Before You Dig* section of Pipeline and Hazardous Materials Safety Administration's (PHMSA's) website at www.phmsa.dot.gov.

25. Access to Electronic and Information Technology (PHMSA DEC 2013)

Each Electronic and Information Technology (EIT) product or service, furnished under this award, must be in compliance with the Electronic and Information Technology Accessibility Standard (36 CFR 1194), which implements Section 508 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794d. The PHMSA Office of Civil Rights will respond to any questions and will certify Section 508 compliance for the requirement. You can reach the PHMSA Office of Civil Rights at phmsa.civilrights@dot.gov, or 202-366-9638.

26. Combating Trafficking in Persons (PHMSA JULY 2016)

PHMSA may terminate grants, cooperative agreements, or take any of the other remedial actions authorized under 22 U.S.C. 7104(g), without penalty, if the grantee or any subgrantee, engages in, or uses labor recruiters, brokers, or other agents who engage in-

a) severe forms of trafficking in persons;
b) the procurement of a commercial sex act during the period of time that the grant, or cooperative agreement is in effect;
c) the use of forced labor in the performance of the grant or cooperative agreement; or
d) acts that directly support or advance trafficking in persons, including the following acts:

i) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.
ii) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless-
1) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, or cooperative agreement; or
2) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.
iii) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
iv) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.
v) Providing or arranging housing that fails to meet the host country housing and safety standards.

27. Prohibition on Awarding to Entities that Require Certain Internal Confidentiality Agreements (PHMSA FEB 2015)

a) The Recipient shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

b) The Recipient shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered herein are no longer in effect.

c) The prohibition in paragraph (a) above does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

d) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (P.L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Recipient is not in compliance with the provisions herein.

The Government may seek any available remedies in the event the Recipient fails to comply with the provisions herein.

28. Copyrights

PHMSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government purposes:

a) The copyright in any work developed under a grant, sub award, or contract under a grant or sub award; and

b) Any rights of copyright to which a Recipient, sub recipient or a contractor purchases ownership with grant support.

29. Reporting

a) *Biannual Federal Financial Report (FFR) (SF-425)* – The mid-year FFR provides an update on the status of funds for the first half of the performance period. This report is cumulative. The biannual FFR is due no later than 11:59pm Eastern Standard Time (EST), April 30th and December 30th of the performance year.

b) *Progress Reports* – Each grant recipient is required to submit a progress report to show progression of approved projects and activities. The reports must follow the instructions outlined in the terms and conditions of the grant award. Grant recipients with a twelve (12) or twenty-four (24) month period of performance are required to submit an annual progress report and must follow the instructions outlined in the terms and conditions of the grant award.

c) *End of year financial report* – The end of year FFR closes-out the financial reporting for the performance period. An end of year FFR is due no later than 11:59pm Eastern Standard Time (EST), 120 days after the end of the performance period.

d) *End of year performance report* – The final performance report provides the status of the activities performed during the entire performance period. The end of year performance report is due no is due no later than 11:59pm Eastern Standard Time (EST), 120 days after the end of the performance period.

A request for extension of the due date for a mid and end of year reports must be made in writing to PHMSA no later than **15 days** before the reports are due. The request must include the reason for the request and the requested due date.

(End of provision)