

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

Grant and Cooperative Agreement Terms and Conditions

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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 a signed Request for Advance or Reimbursement (payment request) form 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.

Terms and Conditions of this award. Applicable Federal Law and Regulations

By entering into this agreement for a FY 2025 Hazardous Material Emergency Preparedness Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

General Federal Legislation

- a) Hatch Act - 5 U.S.C. §§ 1501, et seq., but see 49 U.S.C. § 5323(l)(2)
- b) Age Discrimination Act of 1975 - 42 U.S.C. §§ 6101, et seq.
- c) American Indian Religious Freedom Act, Pub. L. No. 95-341, as amended
- d) Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101, et seq.
- e) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. No. 91-616, as amended - 42 U.S.C. §§ 4541, et seq.
- f) Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- g) Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.
- h) National Environmental Policy Act of 1969 - 42 U.S.C. §§ 4321, et seq.
- i) Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
- j) Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101, et seq.
- k) Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. § 1681 through § 1683, and § 1685 through § 1687
- l) Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- m) Title VI of the Civil Rights Act of 1964 - 42 U.S.C. §§ 2000d *et seq.*
- n) Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. §§ 1101 -1104, 541, et seq.
- o) Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- p) Freedom of Information Act - 5 U.S.C. § 552, as amended
- q) Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. § 138
- r) The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. No. 109-282, as amended by section 6202 of Pub. L. No. 110-252)
- s) Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- t) Build America, Buy America Act, Pub. L. No. 117-58, div. G §§ 70901–70927
- u) Bringing in and harboring certain aliens – 8 U.S.C. 1324
- v) Aiding or assisting certain aliens to enter – 8 U.S.C. 1327

Executive Orders

- a) Executive Order 11990 – Protection of Wetlands
- b) Executive Order 12372 – Intergovernmental Review of Federal Programs
- c) Executive Order 12549 – Debarment and Suspension

- d) Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- e) Executive Order 14025 – Worker Organizing and Empowerment
- f) Executive Order 14149, Restoring Freedom of Speech and Ending Federal Censorship
- g) Executive Order 14154, Unleashing American Energy
- h) Executive Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing
- i) Executive Order 14168 Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j) Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity

General Federal Regulations

- a) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 CFR Parts 200, 1201
- b) Non-procurement Suspension and Debarment – 2 CFR Parts 180, 1200
- c) Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 CFR Parts 60, et seq.
- d) New Restrictions on Lobbying – 49 CFR Part 20
- e) Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21, including any amendments thereto
- f) Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 25
- g) Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 CFR Part 27
- h) Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- i) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- j) DOT’s implementing ADA regulations for transit services and transit vehicles, including the DOT’s standards for accessible transportation facilities in Part 37, Appendix A – 49 CFR Parts 37 and 38
- k) Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 CFR Part 26 (as applicable under section 12 of this agreement), including any amendments thereto
- l) National Environmental Policy Act implementing regulations– 40 CFR 1500 - 1508

Specific assurances required to be included in the FY 2025 Hazardous Material Emergency Preparedness Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

6. 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 \$1,000,000 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

7. Federal Law and Public Policy Requirements.

- a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.
- b) Pursuant to Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, the Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code.
- c) Pursuant to Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, by entering into this agreement, the Recipient certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws.
- d) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.

8. Restrictions on Use of Funds for Lobbying, Support of Litigation, or Direct Advocacy costs associated with obtaining Federal assistance awards.

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.

9. 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.

The purpose of Section 9 is to ensure that the Recipient has a plan to comply with Title VI and 49 C.F.R. part 21, including any amendments thereto.

If the Recipient is a non-State DOT and does not have a current Title VI Plan on file with PHMSA then as described in chapter II, section 2 of DOT Order 1000.12C, including any amendments or updates thereto, PHMSA must complete a Title VI Assessment of the Recipient before entering this grant agreement. Until DOT guidance on conducting such an assessment is finalized, PHMSA may rely on the date of Title VI assurances provided with the signing of the grant agreement.

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 <http://www.phmsa.dot.gov/org/civilrights/grantrecipientinformation>. 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.

10. 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](#) is incorporated by reference into this award.

The Recipient must inform the PAO if the recipient suspends or debars a sub-awardee.

11. 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.

12. Small and Disadvantaged Business Requirements

If any funds under this award are administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 49 CFR part 26, including any amendments thereto.

If any funds under this award are not administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 2 CFR 200.321, including any amendments thereto.

13. eInvoicing (PHMSA May 2024)

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.

New Grant Recipient User: Once a grant is fully executed, the grant management specialist will submit the recipients' request (External Delphi UAR Form) to the PHMSA Delphi Access Administrator via email to PHMSAinvoicing@dot.gov for a new user account to be granted Delphi. Once a Grantee has completed the registration process and obtained their username and password, they can access the Delphi eInvoicing System. Grantees should activate their system account within 3 days of receiving their credentials to prevent the account from being deactivated. A user account will remain valid unless it is deactivated due to a period of inactivity (it has not been logged into for 45 days) or your agency requests it to be deactivated. If a Grantee's account has been deactivated due to a period of inactivity for any reason, they should contact the ESC Production Helpdesk, who can be reached at 866-641-3500, Option 4 , 3.

NOTE: The "Delphi External Access Request" form should be completed at the time of grant award execution to ensure that the Grant Recipient has access to the system in order to submit invoices as needed. The following tutorial outlines the steps that each grant recipient user must take to become authenticated and activate his/her Delphi eInvoicing System account – Please share this link with new grantees who need new accounts in Delphi System: [ESC: Delphi eInvoicing System - Home](#).

b) System User Requirements:

- iii. 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;
- iv. 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 [ESC: Delphi eInvoicing System - Home](#).

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-invoicing-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.

14. 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) PHMSA 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 PHMSA 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.

15. 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. 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.

- b) Recipient submits advance payments based on cash payment needs and not accrued liabilities.
- c) Recipient must remain in compliance with the terms and conditions of their award.
- d) Recipient is not indebted to the United States Government.
- e) Recipient's SAM.gov registration is current and active at the time of the advance payment request.
- f) 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.

16. 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.

17. 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.

18. 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) 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.

19. 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.

20. 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.

21. Rights in Technical Data

Rights to intangible property under this agreement are governed in accordance with [2 CFR 200.315](#) - “Intangible Property.”

22. 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 planned written issuance containing news or information concerning this Agreement before issuance. The Recipient must provide two copies of the document to the PAO for review prior to release. Also, the PAO must approve any planned presentations/briefings related to this Agreement, as well as the actual presentation (e.g. slides/vu-graphs) to be used.

23. 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.

24. 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>

25. Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA May 2024)

- 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 (for more information see 17 CFR 229.402(c)(2)):

- i) Salary and bonus.
 - ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.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.
 - 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.fsr.gov> for each first-tier sub-award. (The Awardee shall follow the instructions at <http://www.fsr.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.gov) 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.fsr.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>.)

26. 811, Call Before You Dig Program (PHMSA May 2024)

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. The recipient is encouraged to adopt the "811, Call Before You Dig" program for its employees and contractors 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.

27. Access to Electronic and Information Technology (PHMSA May 2024)

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.

28. Combating Trafficking in Persons (PHMSA May 2024)

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.

29. 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.

30. 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.

31. American Materials Required (PHMSA MAY 2024)

If articles, materials, or supplies, are required: Per 41 USC 8302, only unmanufactured articles, materials, and supplies, that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired under this award unless PHMSA determines their acquisition to be inconsistent with the public interest or their cost to be unreasonable.

This requirement does not apply:

- a) to articles, materials, or supplies for use outside the United States;
- b) if articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; and
- c) to manufactured articles, materials, or supplies procured under any contract with an award value that is not more than the micro-purchase threshold.

32. Reporting

- a) *Annual Federal Financial Report (FFR) (SF-425)* – The Annual FFR provides an update on the status of funds for the performance period. This report is cumulative. The Annual FFR is due no later than 11:59pm Eastern Standard Time (EST), December 30th of the performance year.
- b) *Annual Progress Reports* – Each grant recipient is required to submit a progress report to show progression of approved projects and activities. Grant recipients with a performance period longer than twelve (12) months are required to submit an annual progress report and must follow the instructions outlined in the terms and conditions of the grant award.
- c) *Final FFR*– The Final FFR closes-out the financial reporting for the performance period. A Final FFR is due no later than 11:59pm Eastern Standard Time (EST), 120 days after the end of the performance period.
- d) *Final Progress Report* – The Final Progress Report provides the status of the activities performed during the entire performance period. The final progress report 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)