



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration  
(PHMSA)

## Notice of Funding Opportunity

### Hazardous Materials Emergency Preparedness (HMEP) Tribal Grants

Fiscal Year (FY) 2020

NOFO Posted Date: February 4, 2020  
Application Due Date: March 19, 2020  
**Questions Due Date: March 05 ~~16~~, 2020**

Applicant must be registered at [www.grants.gov](http://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 System for Award Management at [www.SAM.gov](http://www.SAM.gov)

Furthermore, applicants must register with FedConnect at <https://www.fedconnect.net> for an account before submitting an application. 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 to use the portal, view the *[FedConnect: Ready, Set, Go! Tutorial](#)* under the *Need Help?* section 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  
693JK320NF0002

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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: “HMEP Tribal Grants – FY 2020”

Announcement Type: Initial Announcement

Funding Opportunity Number: 693JK320NF0002

CFDA Number: 20.703

NOFO Posted Date: February 4, 2020  
Application Due Date: March 19, 2020  
**Questions Due Date: March 05 ~~16~~, 2020**

## **MISSION**

The mission of the DOT is to ensure our nation has the safest, most efficient and modern transportation system in the world. DOT's PHMSA protects people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives. To do this, the agency establishes national policy, sets and enforces standards, educates, and conducts research to prevent incidents. We also prepare the public and first responders to reduce consequences if an incident does occur. To accomplish this, PHMSA awards grants to states, localities, communities, and nonprofits that help make sure pipelines operate safely and shipments arrive without incident.

## **SECTION A - PROGRAM DESCRIPTION**

### **A.1 Purpose**

PHMSA, through the DOT, requests applications from federally recognized tribes and tribal nonprofit organizations representing federally recognized tribes to provide assistance to public sector employees through training and planning grants for emergency response. The purpose of the Hazardous Materials Emergency Preparedness (HMEP) grant program is to increase State, Territorial, Tribal, and local effectiveness in safely and efficiently handling hazardous materials incidents, enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), and encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations.

A strong transportation network is critical to the functioning and growth of the American economy. The nation's industry depends on the transportation network to move the goods that it produces, and facilitate the movements of the workers who are responsible for that production. When the nation's highways, railways, and ports function well, that infrastructure connects people to jobs, increases the efficiency of delivering goods and thereby cuts the costs of doing business, reduces the burden of commuting, and improves overall well-being.

Rural transportation networks play a vital role in supporting our national economic vitality. Addressing the deteriorating conditions and disproportionately high fatality rates on our rural transportation infrastructure is of critical interest to the Department, as rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage. Consistent with the Rural Opportunities to Use Transportation for Economic Success (R.O.U.T.E.S.) Initiative, the Department encourages applicants to consider how the project will address the challenges faced by rural areas in advancing pipeline and hazardous materials (hazmat) transportation safety.

### **A.2 Program Authority**

The HMEP program is authorized under 49 U.S.C. § 5116 and is governed by program regulations in 49 Code of Federal Regulations (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 through Fiscal Year (FY) 2020. Title VII § 7203 of the

FAST Act amended 49 U.S.C. §5116 to combine planning and training grants into § 5116 (a). Therefore, HMEP applicants are no longer required to separately account for planning and training funds.

### **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. Pursuant to 49 U.S.C. § 5128(b), the HMEP is authorized appropriations in the amount of \$21,988,000, however, accounting for the sequester rate of 5.9 percent and administrative costs, the projected amount available to award to all HMEP grant recipients has been reduced to \$20,690,708 for FY 2020, subject to the availability of appropriations. Of this amount, approximately \$700,000 will be made available to federally recognized tribes and tribal nonprofit organizations, subject to the availability of appropriations. 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 notice of funding opportunity is subject to the availability of funds. PHMSA anticipates that approximately \$700,000 will be available for tribal awards.

### **B.2 Period of Performance**

The period of performance is twelve (12) months from the effective date of award for each grant.

### **B.3 Type of Award**

Discretionary grant award.

### **B.4 Previous Awards**

Applicants who received a previous PHMSA HMEP tribal grant award may apply for a FY 2020 grant.

## **SECTION C - ELIGIBILITY INFORMATION**

### **C.1 Eligible Applicants**

The FY 2020 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, which 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.

## **C.2 Cost Sharing or Matching**

In accordance with 49 U.S.C § 5116(d), Tribes must contribute a minimum of 20 percent matching share to the total cost of the grant project. For example, if the total cost of the project is \$50,000, the Tribe must provide at least \$10,000, and PHMSA will provide no more than \$40,000. 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.

## **SECTION D - APPLICATION AND SUBMISSION INFORMATION**

### **D.1 Address to Request Application Package**

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

The application package contains the required electronic forms and the ability to upload attachments for the budget, 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 request a hard copy of the application package, please contact:

Carla Sheppard  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Ave. SE, E23-446  
Washington, DC 20590  
Email: [Carla.Sheppard@dot.gov](mailto:Carla.Sheppard@dot.gov)  
Phone: (202) 366-1109  
FAX: (202) 366-3753

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

If you are a hearing-impaired person, please contact the FR/TTY at 1-800-877-8339 or email [PHMSA-Accessibility@dot.gov](mailto:PHMSA-Accessibility@dot.gov).

**To begin the process, applicants must be registered with [www.Grants.gov](http://www.Grants.gov) to submit an application.** It is highly recommended that applicants begin the registration process as soon as

possible to avoid delays with submission. **Failure to comply with the prescribed application requirements as described in this section will result in an application not being reviewed.**

#### **Accessing 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.” **NOTE: 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 by phone at 1-800-518-4726 or by email at [support@grants.gov](mailto:support@grants.gov).

#### **Accessing FedConnect:**

Applicants must register with FedConnect at <https://www.fedconnect.net> for an account before submitting an application. 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 to use the portal, view the *FedConnect: Ready, Set, Go! Tutorial* under the *Need Help?* section on the FedConnect home page. For other technical issues or questions, either email [fcsupport@unisonglobal.com](mailto:fcsupport@unisonglobal.com) or call us at 1-800-899-6665 option 2. The FedConnect Support Center is staffed Monday - Friday 8 a.m. to 8 p.m., EDT, except Federal holidays.

## **D.2 Content and Form of Application**

Consistent with the Department's R.O.U.T.E.S. Initiative (<https://www.transportation.gov/rural>), the Department encourages applicants to describe how activities proposed in their application would address the unique challenges facing rural transportation networks, regardless of the geographic location of those activities.

Applications should be clear, concise, 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 notice of funding opportunity.

Applications for FY 2020 HMEP Tribal Grant funding should be submitted in electronic format in Grants.gov per the following outline. There are two overall sections: (1) standard forms that the applicant will download and complete from Grants.gov under the FY 2020 HMEP Tribal Grant funding opportunity; and (2) attachments the applicant will need to create and upload.

### **1. Standard Forms**

These required forms are found in Grants.gov under the FY 2020 HMEP Tribal Funding Announcement and must be completed by the applicant.

- a. SF-424 – Application for Federal assistance
- b. SF-424A – Budget Information
- c. ED-80-0013 – Certifications Regarding Lobbying; Debarment, Suspension, Drug-Free Workplace etc.
- d. Standard Title VI/Non-Discrimination Assurances – Civil Rights Assurances

### **2. Applicant Attachments**

These forms must be created by the applicant and uploaded to Grants.gov under the FY 2020 HMEP Tribal Grant Funding Opportunity. Guidance for submitting the project narrative and budget narrative is listed in the following section.

- a. HMEP Grant Application Form
  - Project Narrative
  - Budget Narrative attachment
- b. Indirect cost agreement (if applicable)
- c. Additional optional attachments (if applicable)

The forms and templates are available on Grants.gov in the ‘Related Documents’ tab with detailed instructions on the application process.

### 3. Project Narrative

The following Project Narrative sections are required. To facilitate the application review and award process, submit the sections in the order of their appearance as stated below. Applicants should clearly identify the sections in the project narrative section of the application. (**Note: Item One should be provided as an attachment**)

- a. **Cover letter** from the Tribal Authority designating the entity to receive Federal funds.
- b. **Contact information**— In Part A of the HMEP grant application form identify the designated project director, including the name, position, address, email address, and telephone number of the individual(s) who will be responsible for coordinating the funded activities. Additionally, identify authorized individuals who will accept the awarded grant document, as well as individuals responsible for the submission of required federal financial reports.
- c. **Organization information and capacity**— Briefly provide information about your organization in section three of Part A of the application form. This should include: (1) your organization’s mission; (2) a brief overview of the structure of your organization, programs, leadership, and special expertise; and (3) your organization’s experience and capacity to manage Federal grant programs – with emphasis on experience managing Federal grants related to train-the-trainer and direct training for employees involved in the transportation of hazardous materials.
- d. **Transportation fees** – In Part B of the application form, identify whether the Tribe assesses and collects fees on the transportation of hazardous materials and what percentage of the fees collected is used solely to carry out purposes related to the transportation of hazardous materials.
- e. **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 the tribal region, (2) providing the number of hazmat preparedness plans

that need updating, (3) describing the location and need for exercises to be conducted that involve preparation for response to incidents involved in the transportation of hazardous materials, (4) providing the number of responders needing training and the number of persons currently trained in the different disciplines of response functions (e.g., number of firefighters, Emergency Medical Technicians, Emergency Medical Services that need training).

- f. **Goals and objectives** – In section three of Part C of the application form, list the program goals and objectives for the HMEP grant funds. In addition, applications should include long-term program objectives.
- g. **Planning and training activities** – In section 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. Each activity should correlate to goals listed. State whether the activities are located in a Qualified Opportunity Zone designated pursuant to 26 U.S.C. § 1400Z-1.
- h. **Monitoring** – In section six of Part C of the application form, 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.
- i. **Statement of auditable accounting system** – In Part E of the application form, certify that the person authorized to provide training agree to have an auditable accounting system.
- j. **Statement of aggregate expenditures** – In Part E of the application form, certify that the Tribe's/State's 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.
- k. **Statement of 75 percent programmatic requirement** – In Part E of the 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). There is no 75 percent Local Emergency Planning Commission (LEPC) pass-through requirement in FY 2020.
- l. **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.

#### 4. Budget Narrative

The budget narrative is an explanation of each budget component, which 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. It should also justify how budget costs were

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

Provide a budget narrative justification in Part D of the HMEP grant application form by Object Class that corresponds to the amount listed on the SF-424A and why the amount is needed to implement the project as proposed in the project narrative. The budget narrative must correspond with the costs identified in the SF-424A line item budget, and vice versa.

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:

- a. **Personnel** costs are the employee salaries 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. Applicants should breakout agency staff who directly carry out training and planning activities to ensure the 25 percent administrative costs are deducted from this cap.
  - This category is limited to persons employed by your organization. Those not employed by your agency shall be classified as subrecipients or contractors and should be listed under the "Contractual" or "Other" object class.
  - Only include compensation paid to employees engaged in grant activities.
  - Costs should be consistent with similar types of work within the organization.
- b. **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 Federal Insurance Contributions Act (FICA), health insurance, workers' compensation, and leave. 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.
- c. **Travel** costs are those costs for transportation, lodging, subsistence, and related items requested for field work or for 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 details of each trip are not known at the time of application submission, provide the basis for determining the amount requested.
- d. **Equipment** costs includes those items which 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. Equipment costs must comply with 2 CFR § 200.439. 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. List rented or leased equipment costs in the “Contractual” or “Other” category, depending upon the procurement method.
- e. **Supplies** are tangible personal property other than equipment necessary to carry out the Federal award. 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.
- f. **Contractual** costs are those services carried out by an individual or organization, other than the applicant, in the form of a procurement relationship or subaward (subgrant). For all contractual line-item costs, include rationale for the costs; include the specific contract goods and/or services provided; and the related expenses for those goods and services. Simply entering the statement “contractual services” will not be considered sufficient. There are two ways to capture costs in this category: subgrants and contracts.
- **A Subaward (Subgrant)** is an award provided by a pass-through entity (Grantee/Recipient) to a subrecipient. That subrecipient carries out part of a program for which the Grantee/Recipient received Federal support. A subrecipient has its performance measured in relation to whether objectives of a Federal program were met; has responsibility for programmatic decision making; is responsible for adherence to applicable Federal program requirements specified in the Federal award; and (in accordance with its agreement), uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
  - **A Contract** is a legal instrument by which a Grantee/Recipient purchases property or services needed to carry out the project or program under an award. A contract/contractor provides the goods and services within normal business operations; provides similar goods or services to many different purchasers; normally operates in a competitive environment; and provides goods or services that are ancillary to the operation of the Federal program.
- g. **Other** costs that do not fit any of the aforementioned categories, such as rent for buildings used to conduct project activities, utilities, leased equipment, employee training tuition, etc. “Other” direct costs must be itemized.
- h. **Indirect costs (if applicable, must include IDC agreement or statement claiming de minimis rate):** Indirect costs are allowable in the HMEP grant. Indirect costs are incurred for common or joint objectives that benefit more than one project and are not readily

assignable to one project, without effort disproportionate to the results achieved. The applicant must include a current and fully executed indirect cost rate 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 indirect cost rate agreement, the applicant may be eligible for the 10 percent de minimis rate provided by 2 CFR § 200.414(f). A tribal non-profit organization 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 (MTDC) 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.

- i. **Match** The total matching requirement should be listed in Section A and Section C of the SF-424A line item budget. Please only include the Federal-share of costs in Section B of the SF-424A. The budget narrative is where the matching requirements should be captured. Within the applicable object class category in the budget narrative, (Personnel, Supplies, etc.), detail the matching requirements.

**\*\*\*Further, please note that in order 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. \*\*\***

### **D.3 Dun and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM)**

Each applicant is required to: (i) Be registered in SAM (SAM.gov) before submitting its application; (ii) provide a valid DUNS number in its application; and (iii) continue to maintain an active SAM registration and DUNS with current information always during which it has an active Federal award or an application under consideration.

PHMSA may not make an award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the 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.

Note: PHMSA recommends that applicants review the SAM database to ensure that their DUNS number is updated and active. Link: <https://www.sam.gov/portal/public/SAM/>

### **D.4 Submission Dates and Times**

Completed applications must be received electronically by 11:59 p.m. Eastern Time on March 19, 2020. If an applicant has technical difficulties submitting application through Grants.gov,

please contact the Grants Program Office, Phone: (202) 366-1109 or Email: [HMEP.grants@dot.gov](mailto:HMEP.grants@dot.gov). PHMSA has the right to reject late application submissions.

## D.5 Funding Restrictions

The following costs are not eligible for reimbursement under the FY 2020 HMEP Tribal Grant Program:

- Overtime pay.
- Entertainment, alcohol, or morale costs.
- Excessive costs for general office supplies, equipment, computer software, printing and copying.
- Expenses not related to the transportation of hazardous materials.
- Expenses claimed and or reimbursed by another program.
- Expenses counted as match funds toward another Federal program.
- Expenses that supplant existing operational funds or programs.
- Any additional costs disallowed or stated as ineligible in 2 CFR part 200.

## SECTION E - APPLICATION REVIEW INFORMATION

### E.1 Criteria

Consistent with the Department's R.O.U.T.E.S. Initiative (<https://www.transportation.gov/rural>), the Department recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in this section, the Department will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities.

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

**Technical Criteria:** The following factors will be considered during technical review:

- a. 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?
- b. Does the application list the program goals and objectives for the grant funds?
- c. Does the application contain planning and training activities that align with the HMEP grant program guidelines?
- d. Do the activities listed appear to be allowable, allocable, necessary and reasonable?
- e. Does the application adequately describe the proposed activities?

- f. Does the application provide costs and a reasonable timeline of proposed grant activities?
- g. Does the application provide a description of the monitoring and evaluation of the proposed activities?

**Programmatic Criteria:** Applications will be evaluated against the following evaluation criteria during programmatic review.

The following factors will be considered:

- a. Does the applicant provide a letter from the Tribal Authority designating the entity to receive Federal funds?
- b. 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?
- c. Does the applicant provide a statement certifying that the person authorized to provide training agree to have an auditable accounting system?
- d. Does 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)?
- e. Does applicant provide a statement indicating that all members of the TERC were provided the opportunity to review the grant application?
- f. The number of hazardous material facilities in the State or on land under the jurisdiction of the Indian tribe;
- g. The types and amounts of hazardous material transported in the State or on such land;
- h. The past record of the State or Indian tribe in effectively managing planning and training grants; and
- i. Whether the project(s) are located in a Qualified Opportunity Zone designated pursuant to 26 U.S.C. § 1400Z-1.

## E.2 Review Selection Process

**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.

**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) are responsive to 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 base the technical review on the technical review criteria in section E.1.

**Programmatic Review:** PHMSA will conduct a programmatic review to assess programmatic factors identified in section E.1. Programmatic factors are those factors which are relevant and essential to the process of selecting applications that best achieve the program objectives, in accordance with applicable statutes, regulations, policies, and guidelines. Other programmatic factors may include history of performance, program priorities, and other modal needs.

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

| Rating Guideline                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Highly Recommended</b> - 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 the DOT objectives and priorities. The risk of poor performance is very low. |
| <b>Recommended</b> - 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 the DOT objectives and priorities. The risk of poor performance is low.                                                      |
| <b>Acceptable</b> - 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 the DOT objectives and priorities. The risk of poor performance is moderate.                                |
| <b>Not Acceptable</b> - 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 the 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 the PHMSA Administrator after taking into consideration recommendations made during the administrative, technical, and programmatic reviews and how well the applications address PHMSA's safety priorities. The Secretary of Transportation will make final award selection decisions.

### E.3 FAPIIS Check

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, at its option, may review information in

the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered. PHMSA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 C.F.R. § 200.205.

#### **E.4 Anticipated Announcement and Federal Award Dates**

Applicants chosen for funding will receive notification of the Federal award. Upon notification, an applicant's authorized official must sign and return the signed award within the timeframe prescribed by PHMSA. PHMSA plans to make awards in September 2020, with a proposed period of performance start date of September 30, 2020.

### **SECTION F - FEDERAL AWARD ADMINISTRATION INFORMATION**

#### **F.1 Federal Award Notices**

PHMSA's grant awarding official will award grants to responsible and eligible applicants, subject to the availability of funding, 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 the Department's financial assistance regulations. Funds may not be used for lobbying or litigation.

The grant award agreement, signed by both the PHMSA Agreement Officer and the Tribal entity, is the authorizing document and this document will be provided through electronic means to the Authorized Representative. The award document will provide pertinent instructions and information, including:

- a. The legal name and address of recipient;
- b. Title of project;
- c. Name(s) of key personnel chosen to direct and control approved activities;
- d. Federal Award Identification Number assigned by PHMSA;
- e. Period of Performance, specifying the duration PHMSA intends to support the project;
- f. Amount PHMSA approved for the project;
- g. Legal authority(ies) under which the award is issued;
- h. Assistance Listing Program Number (formerly CFDA);
- i. Applicable award terms and conditions;
- j. Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the award; and
- k. 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 is incorporated by reference in this award and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on Title 49 CFR part 20.
- 4) The Recipient must comply with Title VI of the Civil Rights 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, or be subject to discrimination under any program or activity receiving Federal financial assistance.
- 5) The Recipient must comply with 49 CFR part 21, "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 is incorporated by reference into this award. 49 CFR and is available at: [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on Title 49 CFR part 21.
- 6) 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 is incorporated by reference in this award and is available at: [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on Title 49 CFR part 32.

### **F.3 Reporting Requirements**

**Bi-Annual Reports** – Each grant recipient is required to submit a bi-annual (twice-yearly) Federal financial report (SF-425) and a bi-annual performance report. The reports must follow the instructions outlined in the terms and conditions of the grant award. Bi-annual Federal financial and progress reports are to be submitted as directed by 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 90 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.*

## **SECTION G - FEDERAL AWARDING AGENCY CONTACTS**

### **Primary Point of Contact**

Fazal Mirza, Agreement Officer  
Phone: (202) 366-5180  
[Fazal.Mirza@dot.gov](mailto:Fazal.Mirza@dot.gov)

### **Program Related Questions**

Carla Sheppard  
Phone: (202) 366-2738  
Email: [Carla.Sheppard@dot.gov](mailto:Carla.Sheppard@dot.gov)

**Grants.gov Questions**

Grants.gov Contact Center  
Phone: (800) 518-4726  
E-mail: [support@grants.gov](mailto:support@grants.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. Please contact the primary point of contact listed in Section G.

**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 legally and financially bind the organization. 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 which 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.

In an effort 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](mailto: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-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.

## 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](http://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](http://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 planned 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. If PHMSA determines that a grantee's application contains material errors, false, fictitious, misleading, or fraudulent statements or claims, PHMSA may choose to not award a grant; or terminate an awarded grant, in whole or in part, consistent with 2 CFR 200.

**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 7<sup>th</sup> Floor  
Washington, DC 20590  
Email: [hotline@oig.dot.gov](mailto: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.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 identifier (9-digit Data Universal Numbering System (DUNS) number) 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.fhrs.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](http://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](mailto: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 30<sup>th</sup> and December 30<sup>th</sup> of the performance year.
- b) *Biannual Performance Report* – The biannual performance report (form OMB Control Number: 2137-0586) provides the status of the activities performed during the first half of the performance period. The biannual performance report is due no later than 11:59pm Eastern Standard Time (EST), April 30<sup>th</sup> and December 30<sup>th</sup> of the performance year.
- 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), 90 days after the end of the performance period.
- d) *End of year performance report* – The final performance report (form OMB Control Number: 2137-0586) 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), 90 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)