

VERMONT HOMELAND SECURITY UNIT MEMORANDUM



TO: Vermont's Law Enforcement Community
FROM: Major Rick Hopkins, Homeland Security Advisor
Vermont Homeland Security Unit
DATE: January 22, 2018
SUBJECT: Homeland Security Grant Program (HSGP) Notice of Funding
Opportunity for Cyber Task Force Members
CFDA: 97.067 Homeland Security Grant Program

Initial Announcement

The Vermont Homeland Security Unit (VTHSU) within the Vermont Department of Public Safety (VT DPS) is seeking applications for the project described herein. This funding, provided through the Homeland Security Grant Program (HSGP) Program, will allow for the hiring of local police officers to work within the FBI's Cyber Task Force, to enhance the Forensics and Attribution Core Capability within Vermont. Application review will be in coordination with the Law Enforcement Working Group and grant awards will sustain or enhance the rating within the State Preparedness Report for the Core Capability of Forensics and Attribution, as defined below.

Core Capability: Forensics and Attribution

Capability Definition: Conduct forensic analysis and attribute terrorist acts (including the means and methods of terrorism) to their source, to include forensic analysis as well as attribution for an attack and for the preparation for an attack in an effort to prevent initial or follow-on acts and/or swiftly develop counter-options.

If requests for funding exceed the available amount, requests will be prioritized and awards will be made based on the need identified in the applications submitted.

VTHSU will hold two (2) outreach meetings to provide program updates, answer questions on allowable items for application, and assist in the development of applications. Conference call-in information will be posted on our website and here:

Friday, February 2, 2018:
9:30 a.m. EST
+18025528456 (Dial-in Number)
Conference ID: 61936708

Tuesday, February 6, 2018:
1:00 p.m. EST
+18025528456 (Dial-in Number)
Conference ID: 67084777

Applications may not be reviewed unless all requirements are met at the time of application review. This includes signatures by all appropriate parties on the cover page. Assistance in completing the application can be obtained by contacting Natalie Elvidge (Natalie.Elvidge@vermont.gov) or (802) 241-5445.

All applications must be RECEIVED at the Department of Public Safety office by Wednesday, February 28, 2018 at 3:00 p.m. EST. Proposals received after this date and time will NOT be eligible for consideration. Submit complete application to:

Financial Administrator:
Richard Deschamps (Richard.Deschamps@Vermont.gov)
Department of Public Safety

Further Guidelines for Application:

1. Applications for funding must be received, approved and a grant agreement executed (signed by a DPS representative) *prior to expenditure of grant funds*.
2. Agencies receiving funding approved by the Working Group are subject to programmatic monitoring and/or financial audits conducted by the Department of Public Safety or U.S. Department of Homeland Security.
3. The Applicant will submit a Program Progress Report Form detailing status of performance measures and project progress.
 - a. A completed HSGP Program Progress Report Form must be submitted each time reimbursement is requested or bi-annually, at a minimum. The reporting periods are July 1 - December 31 (due January 15), January 1 – June 30 (due July 15). A final report is due within 30 days of the end date of this grant agreement.
 - b. Program Progress Report Form is required even if no activity has been performed on the project.
 - c. Blank, incomplete, or insufficient Program Progress Report Forms will not be accepted.
 - d. The State reserves the right to withhold part or all grant funds if the State does not receive timely documentation of the successful completion of grant deliverables.
 - e. Agencies will submit a Program Progress Report Form detailing completion of specific training completed in relation to activities performed as a part of the scope of this grant.
4. The Applicant will ensure that this project is fully operational within the Period of Performance and report back to the DPS Financial Administrator when it is so.
5. Agencies receiving funds will be required to comply with the following performance measures:
 - a. Agencies will ensure that all members utilizing equipment (if applicable) provided by this grant will be trained to the appropriate level to utilize the equipment and the Subrecipient will maintain records of training.
 - b. Agencies will ensure that equipment is accounted for throughout its operational lifetime.
 - i. A Property Records List must be submitted with the initial application and updated/ maintained per Code of Federal Regulations. A template Property Records List that meets these requirements can be found on the VTHSU website <http://hsu.vermont.gov/homeland-security-unit/funding-opportunities>)
 - ii. This can be combined with the agency's ongoing asset list, however, items purchased with Homeland Security funds must be identified as such.

1. If the agencies ongoing asset list is utilized, then 2 CFR 200.313 Code of Federal Regulations must be referenced to ensure that all categories detailed are utilized, as required.
 2. All equipment over \$5,000.00 per unit price, as well as electronics and IT related equipment, purchased through this grant must be included on the Homeland Security Unit (HSU) Property Records List.
6. The Applicant will inform the DPS Financial Administrator and Program Manager in writing of any delays, or desired changes to the concept of operations, and/or technical specifications in order to determine if an amendment to this agreement is warranted.
 - a. If an amendment to this agreement is necessary, no purchases or work may be completed under the adjusted scope of the agreement until the amendment has been executed.
7. The Applicant will ensure that all purchases are invoiced no later than 30 days before the end of the period of performance.
8. The Applicant will comply with Attachment E (Funding Source Special Conditions).
9. The Applicant agrees that grant funds awarded will be used to supplement existing funds for program activities, and will not supplant (replace) non-Federal funds. Subrecipients must be able to document local/state funds were not supplanted with funds from this award (for example: personnel expenses must be supported with actual budget allocations that include this funding source).

* Federal equipment threshold is \$5,000.00. Please reference Federal equipment compliance requirements. Subrecipients must follow their own procurement policy unless the Federal and State requirements are more restrictive.

** Current Indirect Rate Approval Letter (under 2 CFR 200.331(a)(4) must be on file with DPS. It is also important to note that indirect rates may be subject to statutory caps of the Federal program which supersede the requirements of the Uniform Guidance. Refer to Bulletin 5 for further guidance.
10. During the performance of this Agreement, any of the cost categories may be increased or decreased by up to 10% with prior written approval from the DPS Financial Office contact shown on page 1. Approval may be authorized provided:
 - a. The request is within the Total Award Amount in effect at the time of the adjustment.
 - b. The request does not change the Scope of Work.
11. The total dollar amount for this funding opportunity is limited and while the Working Group would like to fund all projects, they most likely will not be able to, so please be realistic and consider sustainability while developing your applications.

Additional Application Requirements:

1. The Law Enforcement Working Group will only consider requests from Vermont law enforcement agencies to prevent and protect from a terrorist incident.

2. By applying for this project, the applicant agrees to the following outcomes, if granted funds:
 - 1.1 The Goals of this Project are:
 - i. To detect, disrupt and investigate illicit cyber activity through an effective cybersecurity law enforcement strategy.
 - ii. To engage in active cybersecurity investigations and enforcement to deter criminal activity within our community and state.
 - iii. Disrupt illegal cyber networks by identifying and arresting cyber violators.
 - iv. Increase local agencies cyber-crimes investigative capability through training and experience obtained working in an established FBI cyber task force.
 - 1.2 Activity to be Performed:
 - i. To participate in a comprehensive operation with the FBI Cyber Task Force.
 - ii. To infiltrate and disrupt cyber networks.
 - iii. Obtain all necessary evidence needed to successfully investigate and prosecute illegal cyber activity within the state.
 - 1.3 Key Personnel, Roles, Dedicated Hours:
 - i. One Officer from the applicant will spend a minimum of 40 hours per week working on the task force. This individual will participate in both field based and office based investigative efforts.
 - ii. The role and function of the Officer assigned to the Task Force will be to complement existing Task Force officers. The Officer will develop intelligence, operate with informants, and coordinate efforts of local and state law enforcement agencies in investigating cyber-crimes or crimes with a cyber-component.
 - iii. The Officer assigned will be report directly to a FBI agent for daily assignments and activities. The Officer assigned will operate in a manner prescribed by the FBI Task Force leadership and will follow all established rules and regulations, policies and procedures.
 - iv. The performance of the assigned Officer will be monitored closely by the Task Force supervisor with performance reports provided to the assigned agency.
 - 1.4 Performance Measures:
 - i. The effectiveness of the proposed project will be monitored through statistical information generated by the Task Force and the quality of the investigations conducted.
3. Additional Items of Note:
 - 1.1 Potential candidates to fill the positions described above will be evaluated on the following qualifications:
 - i. Letter of Interest from candidate.
 - ii. Letter of recommendation from the highest-ranking official in the applying agency.
 - iii. Experience as a law enforcement Officer.
 - iv. Ability to commit two years to the Task Force.
 - v. Experience with investigation.
 - vi. Experience with computers and/or computer crimes.
 - 1.2 If a grant is awarded, it will be to cover the costs of salary and benefits to the applying agency.
 - i. This amount should be calculated utilizing current annual base salary paid to an individual utilizing existing pay plan, contract and/or bargaining agreement in effect.
 - ii. If an individual is entitled to shift differential and/or paid holidays, include that in this category and explain what has been included in the calculations.
 - 1.3 Grant funding will not allow for reimbursement of comp time used. Nor will it allow Officers to accumulate comp time in lieu of cash for overtime worked while assigned to the Task Force.
 - 1.4 All leave time will be incurred by the Officer according to the applicant's policies.
 - 1.5 It will be the responsibility of the FBI to cover the following costs:
 - i. Overtime incurred as a part of the Task Force assignment.

- ii. Vehicle
 - iii. Cell Phone
 - iv. Additional necessary equipment will be required to be purchased by the applicant and reimbursed by the FBI.
- 4. If awarded a grant, the applicant will be required to sign an MOU with the FBI. The MOU may contain the following requirements:

AUTHORITIES

- A. The FBI is authorized to coordinate intelligence, investigative, and operational responses to cyber threats, attacks, and intrusions pursuant to various statutory and executive authorities, including 28 U.S.C. § 533; 42 U.S.C. § 3771; 28 C.F.R. § 0.85; Executive Order 12333, as amended; the Attorney General's Guidelines for Domestic FBI Operations; Annex II to NSPD-46/HSPD-15; NSPD-54/HSPD-23 and 18 U.S.C. § 1030, 50 U.S.C. § 1801 et seq.

PURPOSE

- A. The Comprehensive National Cybersecurity Initiative (CNCI) was formally established in 2008 pursuant to NSPD-54/HSPD-23. The CNCI recognizes the need for a whole-of-government approach to protecting the nation from cybersecurity threats. To further this mission, NSPD-54/HSPD-23 also established the National Cyber Investigative Joint Task Force (NCIJTF), which serves as a multiagency national focal point for coordinating, integrating, and sharing pertinent information related to cyber threat investigations. In accordance with this presidential directive, the NCIJTF operates under the authority of the Attorney General. The Director of the FBI is the designated official responsible for the operation of the NCIJTF. The NCIJTF enhances collaboration and integrates operations among the represented U.S. Intelligence Community and federal law enforcement partners.
- B. While national-level coordination is important to securing the nation, teamwork at the local level is also essential. The FBI has established a nationwide network of field office Cyber Task Forces (CTFs) to focus on cybersecurity threats. In addition to key law enforcement and homeland security agencies at the state and local level, each CTF partners with many of the federal agencies that participate in the NCIJTF at the headquarters level. This promotes effective collaboration and deconfliction of efforts at both the local and national level.
- C. This MOU delineates the responsibilities and commitments of the FBI and the Participating Agency in the Albany CTF.
- D. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, their parent agency, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

- A. In support of the national effort to counter threats posed by terrorist, nation-state, and criminal cyber actors, each CTF synchronizes domestic cyber threat investigations in the local community through information sharing, incident response, and joint enforcement and intelligence actions.
- B. Each CTF leverages the authorities and capabilities of the participating agencies to accomplish the mission.
- C. Recognizing the important role of the private sector in combating the cyber threats facing our nation, each CTF will coordinate with private sector entities to the extent permissible by law and as warranted by operational needs, as set forth by separate agreements between the FBI and these private sector entities.

SUPERVISION AND CONTROL

- A. Overall management of the CTF shall be the responsibility of the Assistant Director in Charge (ADIC) or Special Agent in Charge (SAC) of the Albany Division of the FBI and/or his or her designee.
- B. All guidance on investigative matters handled by the CTF will be issued by the Attorney General or the FBI. The FBI will make available to the Participating Agency applicable guidelines and policies, including the Attorney General's Guidelines for Domestic FBI Operations (AGG-DOM) and the FBI's Domestic Investigations and Operations Guide (DIOG).
- C. The ADIC or SAC shall designate one Supervisory Special Agent to supervise day-to-day operational and investigative matters pertaining to the CTF (CTF Supervisor).

STAFFING COMMITMENT AND RESPONSIBILITIES

- A. In addition to FBI employees, each CTF may consist of the following types of individuals: Task Force Officers, Task Force Members, and Task Force Participants. For purposes of this MOU, when referring to these individuals collectively, they will be referred to as "CTF personnel." In brief, the DIOG defines these terms as follows:
 - a. Task Force Officer (TFO): The individual is a certified law enforcement officer, authorized to carry a firearm, has been deputized under Title 18 of the U.S.C., been issued Federal law enforcement credentials, is assigned to the supervision of the CTF, has an active security clearance recognized by the FBI, and is authorized to have access to FBI facilities.
 - b. Task Force Member (TFM): The individual is an employee of a governmental agency, is assigned to the supervision of the CTF, has an active security clearance recognized by the FBI, and is authorized to have access to FBI facilities.
 - c. Task Force Participants (TFPs): The individual participates on the CTF and does not otherwise qualify as a TFO or TFM. A TFP is sometimes referred to as a "Task Force Liaison."
- B. In light of the significant cost and effort in on-boarding new CTF personnel, and need for continuity to successfully combat cyber threats, each Participating Agency agrees to provide its personnel to the CTF for a period of at least two (2) years. This MOU imposes no maximum limit as to the time that any individual may remain on the CTF.
- C. During periods of heightened threats and emergencies, the CTFs may need to operate 24 hours per day for an extended period of time. To function properly, the CTF depends upon the unique contributions of each Participating Agency. During these periods, all CTF personnel are expected to be available to support CTF activities unless released to the Participating Agency.
- D. Due to the operational needs of the CTF, assignment to special details or duties outside of the CTF to full-time CTF personnel by the Participating Agency must be coordinated with the CTF Supervisor.
- E. On a case-by-case basis, CTF Supervisors may authorize CTF personnel to assist other non-CTF priority FBI matters as necessary and as legally permissible.
- F. Although CTF personnel will report to his or her Participating Agency for non-investigative administrative matters, leave requests will be coordinated with the CTF Supervisor to ensure staffing availability.
- G. Non-FBI CTF personnel remain subject to the rules, regulations, laws, and policies applicable to employees of the participant's respective agency and will also adhere to the FBI's ethical standards and the Supplemental Standards of Ethical Conduct for employees of the Department of Justice. Where there is a conflict between the standards or requirements of the Participating Agency and the FBI, the standard or requirement that provides the greatest organizational protection or benefit will apply, unless the FBI and the Participating Agency jointly resolve the conflict otherwise.
- H. CTF personnel must adhere to the same rules and regulations as FBI employees with regard to security policies, conduct and activities while in FBI space, handling FBI property, while operating FBI vehicles, and while conducting CTF business.

- I. Continued assignment to the CTF will be based on performance and at the discretion of each CTF member's Participating Agency. The FBI ADIC or SAC will also retain discretion to remove any member from the CTF.
- J. CTF personnel are subject to removal from the CTF by the FBI for violation of any provision of this MOU, the FBI's ethical standards, the Supplemental Standards of Ethical Conduct for employees of the Department of Justice, or other applicable agreements, rules, and regulations.

DEPUTATION/SECURITY CLEARANCE/DEADLY FORCE POLICY

- A. Non-federal personnel who will serve on the CTF as a TFO will be federally deputized under Title 18 of the U.S.C. while detailed to the CTF. The FBI will secure the required authorization for their deputation. This will ensure that they are able to assist fully in investigations in compliance with applicable federal statutes.
- B. CTF personnel may be required to handle sensitive and classified information, have access to classified systems, and/or have access to secure office space. Therefore, participants must be eligible to obtain and maintain an appropriate security clearance, up to and including Top Secret, and access to Sensitive Compartmented Information (SCI). CTF personnel being granted access to SCI must successfully complete an annual Security Financial Disclosure Form and counterintelligence (CI) focused polygraph examination. All CTF personnel will execute non-disclosure agreements deemed necessary by the FBI for the protection of classified and sensitive information, including but not limited to an SF-312, Classified Nondisclosure Agreement. Supervisors in the Participating Agency responsible for CTF personnel may only be provided with classified information if they have the appropriate security clearance to receive the classified information and the requisite "need to know."
- C. CTF TFOs will follow the Participating Agency's policy concerning use of deadly force.

COORDINATION

- A. Intelligence, law enforcement, and operational actions will be coordinated and cooperatively carried out within the CTF. The Participating Agency will not act unilaterally on any matter affecting the CTF.
- B. The parties agree that matters designated to be handled by the CTF shall not knowingly be subject to non-CTF or non-FBI intelligence, law enforcement, or operational efforts by the Participating Agency.
- C. On occasion, after coordination with and approval by the CTF Supervisor, a CTF TFO or TFM may handle an investigation solely under the Participating Agency's authorities. In such a case, the investigation will be supervised by the Participating Agency and conducted under the authority of the Participating Agency.
- D. CTF criminal investigative procedures will conform to the requirements for federal prosecution. It is expected that the appropriate United States Attorney, in consultation with the FBI and affected CTF partners, will determine on a case-by-case basis whether the prosecution of cases will be at the federal or state level, based upon which would better advance the interests of justice.
- E. All media releases will be mutually agreed upon, jointly handled by the Participating Agencies, and conform to DOJ guidelines. No press release involving a CTF matter will be issued without prior FBI approval.

INFORMATION SHARING/REPORTS AND RECORDS

- A. Except as described in above, all investigative and intelligence reporting will be prepared and disseminated in compliance with FBI policy. Subject to any legal or policy restrictions, copies of documents created for a CTF matter based upon information obtained from participation on the CTF by any CTF personnel will be considered to be a federal document under the control of the FBI and shall be maintained in accordance with FBI records management policy and applicable

law. All CTF materials and investigative records, including any Memoranda of Understanding, originate with, belong to, and will be maintained by the FBI. All CTF investigative reports will be prepared by CTF personnel solely on FBI forms.

- B. All information learned during the course of a CTF investigation will be subject to the FBI's information sharing policies and may not be disclosed outside of the CTF (or removed, if in tangible form, from FBI space) without the approval of the CTF Supervisor. As FBI records, they may be disclosed only with FBI permission from the CTF Supervisor and only in conformance with the provisions of federal laws and regulations, including the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a, as well as applicable civil and criminal discovery privileges. CTF personnel may not disclose any FBI or CTF-related information outside of the CTF, including any disclosure to CTF personnel's own Participating Agency, without the prior approval of the FBI/CTF Supervisor. Participating Agency heads will be routinely briefed on CTF matters by the ADIC, SAC, or CTF Supervisor, as appropriate, through established CTF briefings.
- C. CTF personnel are strictly prohibited from disclosing any classified information to individuals who do not possess the appropriate security clearance and the need to know. Each Participating Agency agrees to have its CTF personnel sign an FD-868, or a similar form approved by the FBI. This action obligates the participant, who is accepting a position of special trust in being granted access to classified and otherwise sensitive information as part of the CTF, to be bound by prepublication review to protect against the unauthorized disclosure of such information.
- D. The FBI and Participating Agency acknowledge that the information involved in this MOU may identify individuals whose information may be protected by the Privacy Act of 1974 and "United States persons" whose information may be protected by Executive Order 12333, as amended (or any successor thereto) and all such information shall be handled lawfully pursuant to the provisions thereof, to the extent applicable.
- E. CTF personnel may be required to handle and process Protected Critical Infrastructure Information (PCII), as defined by law and regulated by the U.S. Department of Homeland Security (OHS). All CTF personnel will use and disclose OHS PCII in accordance with applicable law and regulation.
- F. The FBI and Participating Agency will immediately report to each other each instance in which data received from each other is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).
- G. The FBI and Participating Agency agree to abide by the DOJ Privacy, Civil Rights, and Civil Liberties Protection Policy for the Information Sharing Environment (January 25, 2010) to the extent that any CTF-related information is covered by that policy. At a minimum, the FBI and Participating Agency shall notify each other of any erroneous information concerning United States citizens or legal permanent resident aliens that is disclosed pursuant to this MOU and take reasonable steps to correct such error.

SALARY/OVERTIME COMPENSATION/FUNDING

- A. The FBI and Participating Agency agree to assume all personnel costs for their CTF personnel, including salaries, overtime payments and fringe benefits.
- B. Subject to funding availability and legislative authorization, the FBI may reimburse to Participating Agency the cost of overtime worked by non-federal CTF members assigned full-time to CTF, provided overtime expenses were incurred as a result of CTF-related duties. A separate Cost Reimbursement Agreement (CRA) must be executed between the FBI and Participating Agency, consistent with regulations and policy. Otherwise, overtime shall be compensated in accordance with applicable Participating Agency overtime provisions and shall be subject to the prior approval of appropriate personnel.
- C. Subject to funding availability and legislative authorization, the FBI may provide a lease vehicle, fuel purchase card, and smart phone to non-federal full-time CTF personnel for use in carrying out

CT related duties. Receiving personnel will be required to execute acceptable use agreements before being issued these items.

- D. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds. Even where one of the parties to this MOU has agreed (or later does agree) to assume a particular financial responsibility, such party's express written approval must be obtained before incurring any expense expected to be assumed by the other party. All obligations of and expenditures by the parties to this MOU will be subject to each party's respective budgetary and fiscal processes and availability of funds pursuant to all applicable laws, regulations, and policies. The parties to this MOU acknowledge that there is no intimation, promise, or guarantee that funds will be available in future years.

TRAVEL

- A. All CTF-related travel of non-FBI personnel requires the approval of the CTF Supervisor and Participating Agency authorization prior to travel. To avoid delay in operational travel, the Participating Agency will provide general travel authority to all of its participating employees for the duration of the employee's membership in the CTF. For domestic travel, CTF personnel will be responsible for appropriate notifications within his or her Participating Agency, as well as standard FBI travel approvals and notification. The CTF will obtain FBI Headquarters authorization and country clearances for CTF personnel required to travel outside the United States. The FBI will pay costs for travel in accordance with the Federal Travel Regulations of all CTF personnel to conduct investigations outside the field office territory.

LIABILITY

- A. General. The Participating Agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the CTF remains vested with his or her employing agency. However, the Department of Justice (DOJ) may, in its discretion, determine on a case-by-case basis that an individual should be afforded legal representation, legal defense, or indemnification of a civil judgment, pursuant to federal law and DOJ policy and regulations.
- B. Common Law Tort Claims
- a. Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of an employee of the U.S. Government, acting within the scope of his or her employment, shall be an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b), and §§ 2671 - 2680.
 - b. Notwithstanding any other provision contained in this MOU, for the limited purpose of defending civil claims arising out of CTF activity, any employee detailed from a Participating Agency who is acting within the course and scope of his or her official duties and assignments pursuant to this MOU may be considered an "employee" of the U.S. government, as defined at 28 U.S.C. § 2671. See 5 U.S.C. § 3374(c)(2). Under the Federal Employee Liability Reform and Tort Compensation Act of 1998 commonly known as the Westfall Act), 28 U.S.C. § 2679(b)(1), if an employee of the United States is named as a defendant in a civil action, the Attorney General or his or her designee may certify that the defendant acted within the scope of his or her employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). The United States can then be substituted for the employee as the sole defendant with respect to any tort claims alleged in the action. 28 U.S.C. § 2679(d)(2). If the United States is substituted as defendant, then "any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred." 28 U.S.C. § 2679(b)(1).
 - c. If the Attorney General declines to certify that an employee was acting within the scope of

employment, "the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment." 28 U.S.C. § 2679(d)(3).

- d. Liability for any negligent or willful acts of CTF personnel undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.

C. Constitutional Claims

- a. Liability for violations of federal constitutional law may rest with the individual federal agent or officer pursuant to *Bivens v. Six Unknown Names Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) or pursuant to 42 U.S.C. § 1983 for state officers.
- b. Federal, state, local, and tribal officers enjoy qualified immunity from suit for constitutional torts, "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).
- c. If any Participating Agency's CTF personnel is named as a defendant in his or her individual capacity in a civil action alleging constitution, damages as a result of conduct taken within the scope of CTF-related duties, the individual may request representation by DOJ. 28 C.F.R. §§ 50.15, 50.16.
- d. An employee may be provided representation "when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment, and the Attorney General or his or her designee, determines that providing representation would otherwise be in the interest of the United States." 28 C.F.R. § 50.15(a),.
- e. Any CTF personnel's written request for representation should be directed to the Attorney General and provided to the Chief Division Counsel (CDC) of the FBI division coordinating the CTF. The CDC will forward the representation request to the FBI's Office of the General Counsel (OGC), together with a letterhead memorandum concerning the factual basis of the lawsuit. FBI's OGC will then forward the request to the Civil Division of DOJ, together with an agency recommendation concerning scope of employment and DOJ representation. 28 C.F.R. § 50.15(a)(3).
- f. If any CTF personnel is found to be liable for a constitutional tort, he or she may request indemnification from DOJ to satisfy an adverse judgment rendered against the employee in his or her individual capacity. 28 C.F.R. § 50.15(c) (4). The criteria for payment are substantially similar to those used to determine whether a federal employee is entitled to DOJ representation under 28 C.F.R. § 50.15 (a).
- g. Determinations concerning legal representation and indemnification by the United States are discretionary and are made by DOJ on a case-by-case basis. The FBI cannot guarantee that the United States will provide legal representation, legal defense, or indemnification to any federal or state employee detailed to the CTF, and nothing in this MOU shall be deemed to create any legal right on the part of any CTF personnel.

D. Express Reservations

- a. Nothing in this Article shall be deemed to create an employment relationship between the FBI or the United States and any Participating Agency CTF member other than for exclusive purposes outlined in the Liability section herein.
- b. The participating agencies do not waive any available defenses and/or limitations on liability. No Participating Agency shall be considered to be an agent of any other Participating Agency.

DURATION

- A. The term of this MOU is for the duration of the CTF's operation, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the

Participating Agency involved.

- B. Any Participating Agency may withdraw from the CTF at any time by written notification to the ADIC or SAC or the National Cyber Task Force Unit at FBI Headquarters at least 30 days prior to withdrawal.
- C. Upon termination of this MOU, all equipment provided to the CTF will be returned to the supplying Participating Agency(ies). In addition, when a Participating Agency withdraws from the MOU, the Participating Agency will return equipment to the supplying Participating Agency(ies). Similarly, any remaining Participating Agency will return to a withdrawing Participating Agency any unexpended equipment supplied by the withdrawing Participating Agency.

MODIFICATIONS

- A. This agreement in no manner affects any existing agreements with the FBI or any other agency. This agreement may be amended only by mutual written consent of the parties. The modifications shall have no force or effect unless such modifications are reduced to writing and signed by an authorized representative of the FBI and the Participating Agency.
- B. The Comprehensive National Cybersecurity Initiative (CNCI) was formally established in 2008 pursuant to NSPD-54/HSPD-23. The CNCI recognizes the need for a whole-of-government approach to protecting the nation from cybersecurity threats. To further this mission, NSPD-54/HSPD-23 also established the National Cyber Investigative Joint Task Force (NCIJTF), which serves as a multi- agency national focal point for coordinating, integrating, and sharing pertinent information related to cyber threat investigations. In accordance with this presidential directive, the NCIJTF operates under the authority of the Attorney General. The Director of the FBI is the designated official responsible for the operation of the NCIJTF. The NCIJTF enhances collaboration and integrates operations among the represented U.S. Intelligence Community and federal law enforcement partners.

GRANT APPLICATION GUIDELINES & REQUIREMENTS:

Evaluation criteria can be found on page 17. Application packages must include and/or meet all of the requirements outlined in the Grant Application Checklist, included in the RFP in order to be considered eligible for HSGP funding. Incomplete applications may not be considered by the Working Group.

Funding Opportunities:

Those wishing to apply for VT DPS HSGP funds should visit the Funding Opportunities section of the Vermont Homeland Security web site at <http://hsu.vermont.gov/homeland-security-unit/funding-opportunities>.

Submission of Applications:

All applications must be RECEIVED by the Homeland Security Unit office by *Wednesday, February 28, 2018 at 3:00 p.m. EST*. Proposals received after this date and time will NOT be eligible for consideration. To facilitate processing, completed grant applications should be sent electronically to Richard Deschamps at Richard.Deschamps@vermont.gov. If you are unable to send your application electronically, you may mail it to Richard Deschamps, Vermont Department of Public Safety, Financial Office, 45 State Drive, Waterbury, VT 05671-1300. It must be received at our office no later than the due date and time listed above. If it arrives at *3:01 p.m. EST*, it will be considered late.

Application Guidelines:

Departments that wish to apply for HSGP funding must review the Guidelines and Requirements outlined below prior to completing the application documents. All application packages must include the following documents:

Grant Application Checklist:

<i>ALL APPLICATIONS MUST CONTAIN THE FOLLOWING TO BE CONSIDERED:</i>	✓
Completed Vermont Sub-grant Application (#1-11 completely filled in): <ul style="list-style-type: none">i. All sections of the application, #1-11, must be complete.ii. The Application Cover Sheet must include (2) signatures (Project Director and Fiscal Contact). Please note that the Project Director and Fiscal Contact cannot be the same person.iii. See instructions on page 8 of the application.iv. The Application can be found by accessing the following link: http://hsu.vermont.gov/homeland-security-unit/funding-opportunities	
Application Cover Sheet contains 2 signatures (Project Director and Fiscal Contact). <i>Please note the Project Director and Fiscal Contact cannot be the same person.</i>	
If applying for Limited Cash Advance, a copy of agency's Cash Advance Policy, meeting the Cash Advance requirement listed below, must be included in the application: <ul style="list-style-type: none">i. If your project is too large for your agency to accomplish in a reimbursement (after-the-fact) in arrears of expenses, you may request pre-payment on a "Limited Cash Advance" basis. Check the box in 8a and provide justification for consideration. A possible justification may be a large required purchase by a low-budget agency or organization. Large purchases as the sole justification will not be approved.ii. If requesting a cash advance, your Agency's cash advance policy must be included in your application and meet the following requirement:	

<p>A subrecipient must have procedures in place to be compliant with 2 CFR 200.305 as well as 15 USC 1601 Electronic Fund Transfer Act. The subrecipient must deposit cash advance in an interest bearing account (with some regulatory exceptions) and report any federal grant interest annually to the U.S. Department of Human Services, Payment Management Division.</p>	
<p>Equipment Quotes (<i>if applying for equipment</i>):</p> <ol style="list-style-type: none"> Three (3) quotes must be submitted for all single items valued at more than \$100.00 per unit. Because the Code of Federal Regulations, 2 CFR part 225, requires full and open competition while procuring grant-funded equipment, a sub-recipient must obtain and provide multiple quotes for any equipment purchased with federal funds. Geographical preference and/or sole source will not be sufficient to comply with the competitive procurement requirements. If (3) quotes are not provided, the applicant must explain the reason why three quotes were not submitted. The applicant must indicate in their application the AEL# of any requested equipment. 	
<p>Completed Homeland Security Grant Program (HSGP) Property Records List provided (<i>if applicable</i>):</p> <ol style="list-style-type: none"> The Property Records List should include all Homeland Security Grant Program funded purchases that have not exceeded their useful life. If you are requesting new equipment, a Property Records List is not required, but this must be noted in your application that equipment is new. The Property Records List should include all items you are seeking replacement of, regardless of whether or not they were purchased with grant funds. All fields must be completed, including location. Location should be specific location of the equipment, not just the name of the department. If location is a vehicle, please include the vehicle plate number and use of the vehicle. A template for the Property Records List can be found by accessing the following link: http://hsu.vermont.gov/homeland-security-unit/funding-opportunities. 	
<p>Roster(s) provided</p> <ol style="list-style-type: none"> If your agency is applying for items to be assigned or used by individual members of the department, a complete department roster must be provided including name, rank and call number. If your agency is applying for items to be assigned to a vehicle, a complete department vehicle roster must be provided, including vehicle plate number and use. 	
<p>Procurement Standards provided</p> <ol style="list-style-type: none"> Subrecipients will use their own procurement procedures that reflect applicable local laws and regulations, if the procurements conform to applicable Federal law and the standards identified in 2 CFR part 200: (http://www.ecfr.gov/cgi-bin/text-idix?SID=289fd4edcc40f3b0cb6a4bd62aa39dbf&node=pt2.1.200&rgn=div5). A copy of the procurement procedures must be submitted with the application. 	

<p>Completed Maintenance and Sustainment Plan</p> <p>i. Explain how your organization will continue to fund this project and maintain its operations over the long term without dependence on Homeland Security Grant funds. Indicate funding sources, resources, etc.</p>	
<p>Certificate of Insurance (COI) with current coverage:</p> <p>i. All applications must include a copy of your Certificate of Insurance validating current insurance coverage that meets the limits listed below.</p> <p>ii. Before commencing work with HSGP funds, applicants must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.</p> <p><u>Workers Compensation:</u> With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.</p> <p><u>General Liability and Property Damage:</u> With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:</p> <p>Premises - Operations Products and Completed Operations Personal Injury Liability Contractual Liability</p> <p>The policy shall be on an occurrence form and limits shall not be less than:</p> <p>\$1,000,000 Per Occurrence \$1,000,000 General Aggregate \$1,000,000 Products/Completed Operations Aggregate \$ 50,000 Fire/ Legal/Liability</p> <p>Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.</p> <p><u>Automotive Liability:</u> The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.</p> <p>Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement</p>	

<p>NIMS Compliant:</p> <p>All agencies applying for Homeland Security funds must comply with National Incident Management System (NIMS) activities set forth in Vermont's NIMS Implementation Plan. The Vermont NIMS Implementation Plan can be found here: http://vem.vermont.gov/programs/nims.</p>	
<p>Current FCC License (<i>if applicable</i>):</p> <ol style="list-style-type: none"> A copy of your valid narrowband FCC License or application must be provided with your application. If a narrowband license has been applied for, but not received proof of the license, application must be provided with the application documents. In this scenario the Communications Working Group will review the request; however, if the request is approved an award will not be issued until a copy of the approved narrowband FCC license is provided. Ask your radio vendor or visit www.fcc.gov for more information. 	
<p>Financial risk assessment survey complete:</p> <ol style="list-style-type: none"> To meet the Code of Federal regulations, the Vermont Department of Public Safety requires all agencies to complete a financial risk assessment survey. The financial risk assessment survey should be completed by your agency's fiscal agent annually. The applicant must have completed the following and not have been identified as high risk: https://www.surveymonkey.com/r/VTDPSSrissurvey The Department of Public safety will validate that each agency has completed the Financial Risk Assessment Survey. Applications received by agencies not in compliance will not be reviewed. 	
<p>The applicant must not be listed on the suspended and debarred list:</p> <ol style="list-style-type: none"> The Department of Public safety will validate that each agency is not on the suspended and debarred list. Applications received by agencies not in compliance will not be reviewed. 	
<p>The applicant must not be listed on the Restricted Parties List:</p> <ol style="list-style-type: none"> The Department of Public safety will validate that each agency is not on Department of Public Safety Restricted Parties List. Applications received by agencies on the Restricted Parties List will not be reviewed. 	
<p>DUNS:</p> <ol style="list-style-type: none"> Applicants must have a valid DUNS number. 	
<p>FFATA:</p> <ol style="list-style-type: none"> Applicants must be currently registered with the System for Award Management (SAM) per the Federal Funding Accountability and Transparency Act (FFATA) (https://www.sam.gov/portal/public/SAM/). 	
<p>Additional Requirements:</p>	

<p>i. Applicants must meet all requirements listed in the Additional Application Requirements listed in the RFP. If documentation is required, it must be contained within the application as a separate document titled “Additional Application Requirements”.</p>	
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Application Evaluation Criteria:

- 1) Each member of the Working Group will review each application independently.
- 2) The Working Group will award a score of 1 to 5 to each of the applicable evaluation criteria outlined in the table below. One (1) is not at all, three (3) is acceptable, and five (5) is excellent.
- 3) A score will be calculated for each application. For those evaluation criteria that do not apply to the type of agency applying, the possible points will be adjusted accordingly.
- 4) A score of 50 or below will result in an award NOT being issued.
 - a. The Working Group may choose to ask for additional documentation for review, as they see appropriate, to assist in the review and award process.

All applications must be RECEIVED at the Department of Public Safety office by Wednesday, February 28, 2018 at 3:00 p.m. EST. Proposals received after this date and time will NOT be eligible for consideration.

Completed Vermont Sub-grant Application (#1-11 completely filled in): i. All sections of the application, #1-11, must be complete. ii. The Application Cover Sheet must include (2) signatures (Project Director and Fiscal Contact). Please note that the Project Director and Fiscal Contact cannot be the same person.	5
If applying for Limited Cash Advance, a copy of agency's Cash Advance Policy, meeting the Cash Advance requirement, must be included in the application.	5
Three (3) equipment quotes for each item requested over \$100.00. <i>If (3) quotes are not provided, the applicant must explain the reason why (3) quotes were not submitted. The applicant must indicate in their application the AEL# of any requested equipment. (if applying for equipment)</i>	5
Completed Homeland Security Grant Program (HSGP) Property Records List provided (<i>if applicable</i>)	5
Agency Roster provided (<i>if applicable</i>)	5
Vehicle Roster provided (<i>if applicable</i>)	5
Procurement Standards provided	5
Completed Maintenance and Sustainment Plan	5
Certificate of Insurance (COI) with current coverage	5
NIMS Compliant	5
Current FCC License (<i>if applicable</i>)	5
Financial risk assessment survey complete	5
The applicant must not be listed on the suspended and debarred list	5
The applicant must not be listed on the DPS Restricted Parties List	5
Applicants must have a valid DUNS number	5

Applicants must be currently registered with the System for Award Management (SAM) per the Federal Funding Accountability and Transparency Act (FFATA).	5
Meet all requirements listed in the Additional Application Requirements listed in this RFP. If documentation is required, it must be contained within the application as a separate document titled “Additional Application Requirements”	5
The application identifies and quantifies the need for the proposed equipment (Problem Statement).	5
The application identifies the acquisition proposed to improve the need identified (Proposed Countermeasure).	5
The application identifies the link between the proposed acquisition and the identified need (Linkage).	5
The application contains complete and realistic milestones.	5
The application identifies the data to be collected to evaluate the success of the acquisition (Measurement/evaluation).	5
Reviewer is confident in the applicant’s proposed acquisition will contribute to progress in the State’s goals and objectives.	5
The applicant has demonstrated a willingness to participate and cooperate in the State’s effort to improve Capabilities.	5
The use of this subgrant opportunity will increase the applicant’s ability to better deliver services to constituents.	5
Reviewer is confident in the applicant’s ability to properly use, report, and document the funds to be subgranted.	5
TOTAL	130

GRANT AGREEMENT PROVISIONS AND SPECIAL CONDITIONS

If awarded a grant, each agency must adhere to the certifications and assurances identified in the subgrant agreement. Below are sample conditions that must be followed in order to be in compliance of the grant. These conditions are subject to change in the actual agreement and are provided here to advise an applicant of parameters that may be required upon acceptance of the Homeland Security grant award.

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS REVISED DECEMBER 15, 2017

1. Definitions: For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. "Agreement" shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party

agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State's sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State's immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State's entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the

Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed

settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement. The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement. Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term

of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability
- The policy shall be on an occurrence form and limits shall not be less than:
 - \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate

- 1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also

ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A) Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B) Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C) Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full

compliance with a plan to pay any and all taxes due to the State of Vermont.

- D)** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A)** is not under any obligation to pay child support; or
B) is under such an obligation and is in good standing with respect to that obligation; or
C) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A

("Certification Regarding Use of State Funds").

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in

connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this

Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

B. Termination for Cause: Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its

obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party’s delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party’s performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an “AS IS, WHERE IS” basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a

copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is

managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

A. Certification Regarding Use of State Funds: If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.

B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

OTHER GRANT AGREEMENT PROVISIONS

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS; FOLLOWING SUBRECIPIENT PROCEDURES; PROCUREMENT; DISCLOSURE OF INFORMATION AND CONFLICT OF INTEREST;

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this agreement provides for compliance with certification requirements under 10 CFR Part 601 "New Restrictions on Lobbying," and 10 CFR Part 1036 "Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Public Safety determines to award the covered transaction, grant, or other agreement.

1. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for

influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, Agreements, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was

made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Applicable CFR's and Federal Executive Orders 12549 and 12689 prohibit non-federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and non-procurement transactions such as grants or cooperative agreements. By signing this Agreement, the Subgrantee agrees it will verify the status of potential vendors prior to any federal funds being obligated to prevent any debarred or suspended agencies or vendors from receiving federal funds. The Subrecipient can confirm the status of potential vendors by conducting a search on the System for Award Management (SAM) website (<https://www.sam.gov/port al/public/SAM/>). At this time, DPS does not require Subrecipients to submit proof of verification with any reimbursement request; however, the Subrecipient must maintain this information, in the form of a screen print, with other grant documentation. This documentation shall be available for review per Attachment C.

3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

The Subrecipient will or will continue to provide a drug-free workplace by: ¹

1. Maintaining a Zero Tolerance Drug Policy;
2. Posting in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. Stating in all solicitations or advertisements for employees or subcontractors placed by or on behalf of the Subrecipient that the Subrecipient maintains a drug-free workplace;
4. Establishing an ongoing drug-free awareness program to inform employees about:

¹ 2 CFR § 182

- (a) The dangers of drug abuse in the workplace;
- (b) The Subrecipient's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (e) Including the provisions of the foregoing clauses in all third party contracts, subcontracts, and purchase orders that exceed ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

4. PROCUREMENT:

The Subrecipient agrees to abide by their respective procurement rules, policies, and/or procedures as outlined in 2 CFR §§ 200.317 to 200.326.

1. Subrecipient must comply with proper competitive bidding procedures as required by the applicable federal and state rules.
2. The subrecipient entity must maintain written standards of conduct covering conflict of interest and governing the actions of its employees and engaged in selection, award, and administration of contracts.²
3. The subrecipient must take all necessary

affirmative steps to assure that minority business, women's business enterprises, and labor surplus area firms re used when possible. Please see 2 CFR § 200.321 for the affirmative steps that must be taken.

5. FOLLOWING SUBRECIPIENT PROCEDURES:

The undersigned certifies that the Subrecipient organization has in place standard policies and procedures that govern the Subrecipient's payroll, purchasing, contracting and inventory control in accordance with 2 CFR 225, Appendix A, Section C 1.e or 2 CFR 200.302. The undersigned further certifies that the Subrecipient organization will use those policies and procedures for any approved expenditure under this Agreement and for any equipment purchased with Agreement funds. The undersigned also agrees to make the policies and procedures available for examination by any authorized representatives of the State or Federal Government. This does not relieve the Subrecipient from requirements of federal financial management, requirements in:

- (a) 2 CFR 200 § 302 Financial Management

6. DISCLOSURE OF INFORMATION:

Any confidential or personally identifiable information (PII) acquired by subrecipient during the course of the subgrant shall not be disclosed by subrecipient to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever without the prior written consent of the Department of Public Safety either during the term of the Agreement or in the event of termination of the Agreement for any reason whatsoever. Subrecipient agrees to abide by applicable federal regulations regarding confidential information and research standards, as appropriate, for federally supported projects.

7. CONFLICT OF INTEREST

Subgrantee/Contractor covenants that, to the best of its knowledge, no person under its employ, including subcontractors, who presently exercises any functions or responsibilities in connection with Board, Department, or projects or programs funded by Board or Department, has any personal financial interest, direct or indirect, in this Subgrant Agreement /Contract.

1. Subgrantee/Contractor further covenants that in the performance of

² 2 CFR § 200.318 (c)(1)

Subgrant
Agreement/Contract, no
person having such
conflicting interest shall

knowingly be employed by
Subgrantee/Contractor.
2. Any such interest, on the
part of Subgrantee

/Contractor or its
employees, when known,
must be disclosed in
writing to Department.

ATTACHMENT E

FUNDING SOURCE SPECIAL CONDITIONS

This Agreement is subject to the requirements of all federal laws, policies and bulletins. Most notably:

NIMS Compliant:

All agencies applying for Homeland Security funds must comply with National Incident Management System (NIMS) activities set forth in Vermont's NIMS Implementation Plan. The Vermont NIMS Implementation Plan can be found here: <http://vem.vermont.gov/programs/nims>.

Interoperability Communications:

As part of this agreement, the Subrecipient agrees that the U-Call/V-Call and U-Tac/V-Tac frequencies will be programmed into all applicable interoperable communications equipment. All channels other than U-CALL 40 are used in simplex mode.

V-CALL10	(Formerly VCALL)	Command	155.7525
V-TAC11	(Formerly V-TAC 1)	Dispatch/Lifeline	151.1375
V-TAC12	(Formerly V-TAC 2)	Tactical/Fire Ground	154.4525
V-TAC13	(Formerly V-TAC 3)	Tactical/Search & Rescue	158.7375
V-TAC14	(Formerly V-TAC 4)	Tactical/Air or Ground EMS Operations	159.4725
U-CALL40	(Formerly U-CALL)	Dispatch/Lifeline	453.2125
U-TAC41	(Formerly U-TAC 1)	Command	453.4625
U-TAC42	(Formerly U-TAC 2)	Tactical	453.7125
U-TAC43	(Formerly U-TAC 3)	Tactical	453.8625

Regional Coordination:

A high priority is placed on ensuring that all awards reflect regional coordination and regional integration.

Permits:

All local, state and federal permits are the responsibility of the Subrecipient.

Prior Approval/Review of Releases:

Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the Subrecipient under this Grant Agreement shall be approved/reviewed by the State prior to release.

Data Collection:

The Subrecipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

Article I - Summary Description of Award

The purpose of the FY 2018 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and

deliver the 32 core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, HSGP supports the goal to Strengthen National Preparedness and Resilience. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. This HSGP award consists of State Homeland Security Program (SHSP) funding in the amount of \$3,752,000, and Operation Stonegarden (OPSG) funding in the amount of \$334,899. The following shall receive Operation Stonegarden subawards for the following amounts: State of Vermont, \$334,899. These grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas.

Article II - Buy American and Hire American

All recipients are required to comply with any applicable provisions of the Buy American Act (41 U.S.C. Sections 8301 through 8305), and any other applicable statutes, regulations, or rules that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States.

Article III - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.

Article IV - Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. Section 200.308. For awards with an approved budget greater than \$150,000, you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article V - Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

Article VI - Procurement of Recovered Materials

All recipients must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article VII - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. Section 2409, U.S.C. Section 4712, 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.

Article VIII - Use of DHS Seal, Logo and Flags

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

Article IX - USA Patriot Act of 2001

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

Article X - Universal Identifier and System of Award Management (SAM)

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

Article XI - Reporting of Matters Related to Recipient Integrity and Performance

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

Article XII - Rehabilitation Act of 1973

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

Article XIII - Trafficking Victims Protection Act of 2000

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

Article XIV - Terrorist Financing

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

Article XV - SAFECOM

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

Article XVI - Reporting Subawards and Executive Compensation

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

Article XVII - Debarment and Suspension

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

Article XVIII - Copyright

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

Article XIX - Civil Rights Act of 1964 - Title VI

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

Article XX - Best Practices for Collection and Use of Personally Identifiable Information (PII)

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

Article XXI - Americans with Disabilities Act of 1990

All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities,

public and private transportation systems, places of public accommodation, and certain testing entities. (42 U.S.C. sections 12101-12213).

Article XXII - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article XXIII - Activities Conducted Abroad

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

Article XXIV - Acknowledgment of Federal Funding from DHS

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

Article XXV - DHS Specific Acknowledgements and Assurances

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

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, recipients have been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex, age, disability, religion, or familial status, recipients must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS FAO and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at crcl@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
6. In the event courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the

recipient, or recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS FAO and the CRCL office by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

Article XXVI - Assurances, Administrative Requirements, Cost Principles, and Audit Requirements

DHS financial assistance recipients must complete either the OMB Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the financial assistance office if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article XXVII - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. section 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

Article XXVIII - Notice of Funding Opportunity Requirements

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

Article XXIX - Non-supplanting Requirement

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

Article XXX - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. All recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R.

Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article XXXI - National Environmental Policy Act

All recipients must comply with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XXXII - Lobbying Prohibitions

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

Article XXXIII - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

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

Article XXXIV - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. section 2225.

Article XXXV - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. section 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B-138942.

Article XXXVI - Federal Leadership on Reducing Text Messaging while Driving

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

Article XXXVII - Federal Debt Status

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

Article XXXVIII - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. section 3729 - 3733 which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. section 3801-3812 which details the administrative remedies for false claims and statements made.)

Article XXXIX - Energy Policy and Conservation Act

All recipients must comply with the requirements of 42 U.S.C. section 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

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

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

Article XLI - Duplication of Benefits

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

Article XLII - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. section 8101 et seq.), which requires all organizations receiving grants from any federal agency agree to maintain a drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 3001, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 8101-8107).

Article XLIII - Civil Rights Act of 1968

All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. section 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units

(all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. section 100.201.)

Article XLIV - Operation Stonegarden Program Hold

The recipient is prohibited from drawing down or reimbursing sub-recipients of Operation Stonegarden (OPSG) funding provided through this award until each unique, specific or modified county level, tribal or equivalent Operations Order and/ or Fragmentary Order (Frago) has been reviewed by FEMA/GPD and Customs and Border Protection/United States Border

Final Guidance must be followed, 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards became effective 12/26/2014 for Federal awards that are issued post 12/26/2014. This regulation supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in 2 C.F.R. Parts 220, 225, 215, and 230); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. See final guidance and OMB Policy Statements for more information.

- 2 CFR 180 OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)
- 2 CFR 215 (formerly A-110) Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,
- 2 CFR 220 (formerly A-21) Cost Principles for Education Institutions,
- 2 CFR 225 (formerly A-87) Cost Principles for State, Local and Indian Tribal Governments,
- 2 CFR 230 (formerly A-122) Cost Principles for Non-Profit Organizations, and
- A-133 Audits of States, Local Governments and Non-Profit Organizations.

This Agreement is also subject to the requirements of the State of Vermont grant and audit policies. The most pertinent bulletins and addendums are:

Bulletin 5, Single Audit Policy for Agreements

Bulletin 5 - Procedure #1

Bulletin 5 - Procedure #2

This agreement is subject to the requirements for the federal agency providing the funds. This agreement is subject to the following Code of Federal Regulation (CFR) and Grant Guidance:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr206_main_02.tpl