

*John  
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# State of New Hampshire

DEPARTMENT OF SAFETY  
OFFICE OF THE COMMISSIONER  
33 HAZEN DR. CONCORD, NH 03305  
603/271-2791

JOHN J. BARTHELMES  
COMMISSIONER

October 30, 2012

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

Retroactive

**Requested Action**

Authorize the New Hampshire Department of Safety, Division of Fire Safety to **retroactively** enter into a Memorandum of Understanding with the Division of Fire Standards and Training and EMS in the amount of \$54,600.00 for the continued statewide hazardous material required training. Effective upon Governor and Council approval from October 1, 2012, through September 30, 2013. Funding Source: 100% Federal Funds.

Funds are available in the following account:

02-23-23-238010-53110000	Dept. of Safety Div of Fire Safety	HMEP Grant
072-500576	Grants to Other State Agencies - Federal	\$54,600.00
Activity Code: 23HMEP1213TR		

**Explanation**

The timing of the Hazardous Materials Emergency Planning (HMEP) grant award is usually after the October 1<sup>st</sup> start date of the grant activity period. As a result, this agreement is **retroactive** because the MOU between the Division of Fire Safety and the Division of Fire Standards and Training had to be completed after the grant approval paperwork was received from the U.S. Department of Transportation. The classes conducted by the Division of Fire Standards and Training are federally mandated and need to be scheduled throughout the fiscal year. Therefore, based on the timing of the grant award relative to the grant activity period, this agreement will always be retroactive.

This MOU will allow for the continued statewide hazardous materials training provided by the New Hampshire Fire Academy. This training is required per federal mandates OSHA 1910.120(q) and EPA 40 CFR Part 311, which require specific skills and competencies for personnel responding to calls for assistance where hazardous materials are present. Class curriculum encompasses material based on the National Fire Protection Association (NFPA) guidance for fire, rescue and emergency medical services responders. NFPA 472 and NFPA 473 provide specific guidance on skills and competencies for personnel who work with hazardous material incidents. Funds were awarded from the U.S. Department of Transportation, Hazardous Materials Emergency Planning (HMEP) Grant, to the New Hampshire Department of Safety, Division of Emergency Services, Advisory Council on Emergency Preparedness and Security (ACEPS).

These HMEP funds are 80% federally funded and 20% soft matched by recipients. The 20% soft match is covered by state training dollars paid from Fire Standards and Training Administration – accounting unit 40650000.

Highway Funds or General Funds will not be used should Federal Funds become unavailable.

Respectfully submitted,

*John J. Barthelmes*  
John J. Barthelmes  
Commissioner of Safety



**MEMORANDUM OF UNDERSTANDING**  
between the  
DIVISION OF FIRE SAFETY  
and the  
DIVISION OF FIRE STANDARDS AND TRAINING AND EMS

*Project Title:* U.S. DOT Hazardous Materials Emergency Preparedness (HMEP) Grant

This Agreement describes U.S. DOT Hazardous Materials Emergency Preparedness Grant activities that have been agreed to between the Division of Fire Safety and the Division of Fire Standards and Training and EMS for the purpose of hazardous materials training for first responders.

This Agreement is effective upon Governor and Council approval for cost incurred conducting grant activities from October 1, 2012 through September 30, 2013.

For the purpose of the Agreement, Fire Safety and Fire Standards and Training and EMS agree to cooperate as follows:

Section I: Division of Fire Safety agrees to the following:

- A. Provide Fire Standards and Training and EMS with \$54,600.00 reimbursement basis with no match required for the purpose of hazardous materials training for first responders.
- B. This Agreement may be terminated for good cause by any one of the parties or for convenience if all parties agree, with the provision for orderly termination of the project. Termination of the Agreement shall not occur until thirty (30) days after a “notice of termination” has been received by the other party. Said notice shall specify the cause for termination.

Section II: Division of Fire Standards and Training and EMS agrees to the following:

- A. Complete all activities specified in the activities outline of this agreement.
- B. Expend funds for this Agreement solely for the work specified in the attached outline.
- C. Request reimbursement of expended funds from Division of Fire Safety in writing quarterly, to be submitted within sixty (60) days from the end of the quarter. **Grant period ends September 30, 2013. Final billing must be received by Dept of Safety no later than November 30<sup>th</sup>.**

	<b>Qtr 1</b>	<b>Qtr 2</b>	<b>Qtr 3</b>	<b>Qtr 4</b>
<b>Qtr Dates</b>	Oct 1 - Dec 31	Jan 1 - Mar 31	Apr 1 - June 30	July 1 - Sept 30
<b>Bill Due by</b>	Feb 28	May 31	Aug 31	Nov 30

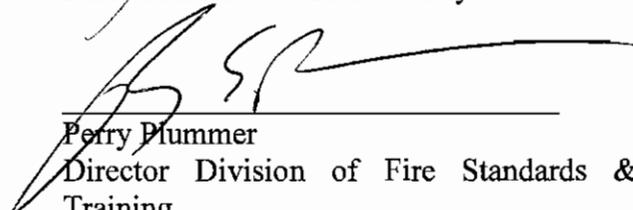
- D. This Agreement may be terminated for good cause by any one of the parties or for convenience if all parties agree, with the provision for orderly termination of the project. Termination of the Agreement shall not occur until thirty (30) days after a "notice of termination" has been received by the other party. Said notice shall specify the cause for termination.

## ACTIVITIES OUTLINE

The NH Fire Academy will offer a Hazardous Materials Programs under the HMEP Training Grant covering awareness, operations, technician, incident command system, and decontamination training. Due to the nature of this training, classes will be scheduled in advance through out the year to be reimbursed quarterly. Program expenses include instructor time, mileage, student manuals, and other materials needed for the delivery of the above programs.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.

Date 10-18-2012   
John W. Degnan  
Director Division of Fire Safety

Date 10/16/2012   
Petry Plummer  
Director Division of Fire Standards & Training

Date 10/18/12   
John J. Barthelmes,  
Commissioner Department of Safety

Date 11/15/12   
Attorney General's Office  
Dana M. H. H. H.



**U.S. Department of Transportation  
Pipeline and Hazardous Materials  
Safety Administration**

# Grant Agreement

1. RECIPIENT NAME AND ADDRESS State of New Hampshire 33 Hazen Dr Concord, NH 03305-0011		2. AGREEMENT NUMBER: HM-HMP-0300-12-01-00	3. AMENDMENT NO. 0
		4. PROJECT PERFORMANCE PERIOD: FROM 09/30/2012	TO 09/30/2013
		5. FEDERAL FUNDING PERIOD: FROM 09/30/2012	TO 09/30/2013
1A. IRS/VENDOR NO. 026000618	6. ACTION New		
1B. DUNS NO. 060340564	FUNDING		TOTAL
7. CFDA#: 20.703	9. TOTAL FEDERAL AMOUNT OF THIS AGREEMENT		145,934.00
8. PROJECT TITLE NH Department of Safety HMEP Program	10. TOTAL MATCHING AMOUNT OF THIS AGREEMENT		36,484.00
	11. TOTAL AMOUNT OF THIS AGREEMENT		182,418.00
12. GRANTEE PROGRAM MANAGER Ms. Les Cartier	12A. GRANTEE PROGRAM MANAGER EMAIL Leslie.Cartier@dos.nh.gov		
	12B. GRANTEE PROGRAM MANAGER PHONE NUMBER 603-223-4289		
12C. GRANTEE PROGRAM MANAGER ADDRESS 33 Hazen Drive Concord, NH 03305-0011			
13. GRANT PROGRAM OFFICER Emmanuel Ekwo-GMO	13A. GRANT PROGRAM OFFICER EMAIL Emmanuel.Ekwo@dot.gov		
	13B. GRANT PROGRAM OFFICER PHONE NUMBER 2023661634		
14. INCORPORATED ATTACHMENTS			
15. STATUTORY AUTHORITY FOR GRANT/COOPERATIVE AGREEMENT Federal Hazardous Materials Transportation Law, 49 U.S.C. 5101 et seq			
16. REMARKS Award Amounts: Federal Share: Planning \$68,527+ Training \$77,407 = Fed Total \$145,934 Non-Federal Share: Planning \$17,132 + Training \$19,352 = Non-Fed Total \$36,484 Total Budget: \$182,418			
<b>GRANTEE ACCEPTANCE</b>		<b>AGENCY APPROVAL</b>	
17. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL <i>John Barthelmes, Commissioner</i>		19. NAME AND TITLE OF AUTHORIZED PHMSA OFFICIAL Dr. Magdy El-Sibaie, Associate Administrator OHMS	
18. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL <i>[Signature]</i>	18A. DATE 9/30/12	20. SIGNATURE OF AUTHORIZED PHMSA OFFICIAL <i>[Signature]</i>	20A. DATE 09/28/2012
<b>AGENCY USE ONLY</b>			
21. OBJECT CLASS CODE: 41000		22. ORGANIZATION CODE: 50D0308EP0	
23. ACCOUNTING CLASSIFICATION CODES			
DOCUMENT NUMBER HM-HMP-0300-12-01-00	FUND 5282XXDA0	BY 2012	BPAC EPGRT010 AMOUNT 145,934.00

## AWARD ATTACHMENTS

State of New Hampshire

HM-HMP-0300-12-01-00

1. PHMSA FY12-13 HMEP States and Territories Terms and Conditions

# PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

*Hazardous Materials Emergency Preparedness Grant Program.*

*Catalog of Federal Domestic Assistance Program No. 20.703*

## TERMS AND CONDITIONS PROGRAM

YEAR 2012-2013

October 1, 2012 -September 30, 2013.

General Terms and Conditions of Award

This award by the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) 1200 New Jersey Avenue, SE Washington, D.C. 20590 is made pursuant to Funding Opportunity Title: "2012 PHMSA HMEP States & Territories," Funding Opportunity Number: HM-HMP-13-004.

### 1. Effect of Award

The Recipient, which is the organization named in block 1 of the Notice of Grant Award (NGA), is legally responsible for and accountable to PHMSA for the funds provided. By acceptance of this award, which is accomplished by the signature of the authorized Recipient official shown in blocks 17 and 18 of the NGA, the Recipient agrees to comply with the terms and conditions detailed or referenced below.

The award may be modified only by the PHMSA Agreement Officer, either at PHMSA's initiation, with Recipient acceptance, as appropriate, or upon the request of, and subsequent approval by, the Agreement Officer. This includes any request by a Request to deviate from non-statutory provisions of 49 CFR 110.

If the Recipient materially fails to comply with the terms and conditions of this award, whether stated in full text herein or incorporated by reference, the Agreement Officer may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances as provided in 49 CFR 18.43.

### 2. Award information

The total amount of HMEP funding is shown in block 9 of the NGA. It must be matched in the amount shown in block 10; however, the amounts for planning and training are considered two separate grants and must be accounted for and reported on separately. Those separate amounts and the required matching share are shown in the Remarks section (block 16 of the NGA).1

The Recipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by this award. Expenditures incurred prior to the effective date of an award cannot be charged against this award.

### 3. Incorporation of approved application by reference

The Recipient's application, including the narrative and budget as approved by PHMSA prior to award, is incorporated by reference in this award. Changes to the approved application are governed by 49 CFR 18.30 and paragraph 15 of these terms and conditions.

### 4. Governing statutes and regulations

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

- the authorizing language of 49 U.S.C. 5101 *et seq.*
- program regulations found at 49 CFR 110, Hazardous Materials Public Sector Training and Planning Grants. 49 CFR 110 is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on 49 CFR 110.
- administrative regulations at 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments. 49 CFR 18 is available at <http://www.dot.gov/ost/m60/grant/49cfr18.htm> (unless 49 CFR 19 <http://www.dot.gov/ost/m60/grant/49cfr19.htm> applies as provided in paragraph 11 of these terms and conditions)
- the cost principles in 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments, which are incorporated by reference in 49 CFR 18 or other applicable cost principles (see paragraphs 10 and 11 of these terms and conditions)
- Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, which is incorporated by reference in 49 CFR 18. (See paragraph 19 of these terms and conditions)
- any other applicable federal statutes and regulations, including, but not limited to the following:

The Recipient must comply with 49 CFR 20, "New Restrictions on Lobbying." 49 CFR 20 is incorporated by reference in this award. 49 CFR 20 is available at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>

The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance.

The Recipient must comply with 49 CFR 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964." 49 CFR 21 is

incorporated by reference into this award. 49 CFR 21 is available at:  
<http://www.dot.gov/ost/m60/grant/regs.htm>.

The Recipient must comply with 49 CFR 32, "Government wide Requirements for Drug- Free Workplace (Financial Assistance)," which implements the requirements of Public Law 100-690, Title Subtitle D, "Drug-Free Workplace Act of 1988." 49 CFR 32 is incorporated by reference in this award. 49 CFR 32 is available at:  
<http://www.dot.gov/ost/m60/grant/regs.htm>.

No term or condition of this award is intended to require the Recipient to violate any applicable State or Territorial law.

The Recipient must immediately notify the PHMSA Agreement Administrator of any change in local law, conditions, or any other event, including any litigation challenging the validity of, or seeking interpretation of, any federal law or regulation applicable to the federal hazmat program, which may significantly affect the Recipient's ability to perform the program in accordance with the terms of this award. The Recipient must also immediately notify the Agreement Administrator (AA) of any decision pertaining to the Recipient's conduct of litigation that may affect DOT interests.

#### 5. Order of precedence

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

- The federal statute authorizing this award or any other federal statutes, laws, regulations or directives directly affecting performance of this award.
- Any special terms and conditions of this award
- General terms and conditions of this award.

#### 6. General PHMSA responsibilities

##### *Authorizing Official Agreement Officer (AO)*

The AO is the individual who signed this award on behalf of PHMSA (blocks 19 and 20 of the NGA) and is the only PHMSA official

- with authority to obligate the Government to the expenditure of federal funds under this award.
- authorized to make formal changes to the award, e.g., through approval of post-award requests for a change to the scope, approved budget, schedule, or any other terms or conditions of this award.

The AO is:

Dr. Magdy El-Sibaie  
Associate Administrator for Hazardous Materials Safety  
U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Avenue, SE, E21-316 Washington, D.C. 20590-0001  
Telephone: (202) 366-0656  
Fax: (202) 366-3753  
E-mail: magdy.el-sibaie@dot.gov

*Agreement Administrator/Grants Management Specialist*

The Agreement Administrator named in block 13 of the NGA is responsible for oversight and monitoring of the award. The Agreement Administrator is the point of contact for recipients for submission of required reports and requests for advice and interpretation of these terms and conditions. The Agreement Administrator is not authorized to make any commitments that obligate the Government or authorize changes which affect the award budget, period of performance, or other terms and conditions of the award. This can be done only by the Agreement Officer.

7. General recipient responsibilities

In accepting a PHMSA financial assistance award (grant or cooperative agreement), the recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award. In accordance with the laws, rules, and regulations governing grants and cooperative agreements, these general terms and conditions, and any special conditions included in this award.

The Recipient is responsible for monitoring grant, subaward, and contractual activities under this award to ensure compliance with federal requirements and that performance objectives are being achieved.

The Recipient is required to advise subrecipients of requirements imposed on them by federal laws, regulations, and the terms and conditions of this award. These include grant administrative requirements, audit requirements under OMB Circular A-133, and the applicable federal cost principles according to recipient type (see paragraphs 10, 11, and 19 of these terms and conditions for additional detail).

Failure to comply with these requirements may result in suspension or termination of the award and PHMSA recovery of funds.

*Recipient Program Manager*

The Recipient's Program Manager (PM) is the individual designated by the recipient and approved by PHMSA who is responsible for the technical direction of the project. The PM is considered a key person under this award and, pursuant to 49 CFR 18.30(d) (3), cannot be replaced without prior written approval of the PHMSA Agreement Officer.

Under the terms of this award, the recipient, through the Recipient's PM, is responsible for

- accomplishing the objectives and tasks specified in the approved application within the approved budget amounts (federal plus matching)
- providing required reports that are complete, accurate, and timely.

8. Central Contractor Registration and Universal Identifier Requirements (Appendix A to 2 CFR 25)

#### *Requirement for Central Contractor Registration CCR*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your Information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

#### *Requirement for Data Universal Numbering System (DUNS) Numbers*

If you are authorized to make subawards under this award, you:

- Must notify potential subrecipients that no entity (see definition below) may receive a subaward from you unless the entity has provided its DUNS number to you.
- May not make a subaward to an entity unless the entity has provided its DUNS number to you.

#### *Definitions*

For purposes of this award term:

*Central Contractor Registration (CCR)* means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

*Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

*Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, subpart C:*

- A Governmental organization, which is a State, local government, or Indian Tribe;
- A foreign public entity;
- A domestic or foreign nonprofit organization;
- A domestic or foreign for-profit organization; and
- A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.

#### *Subaward*

- This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

*Subrecipient* means an entity that:

- Receives a subaward from you under this award; and
- Is accountable to you for the use of the federal funds provided by the subaward.

#### 9. Government wide Debarment and Suspension (Non-procurement)

The Recipient must comply with 2 CFR 1200, "Nonprocurement Suspension and Debarment" which generally prohibits entities that have been debarred, suspended, or voluntarily excluded from participating in federal non-procurement transactions either through primary or lower-tier covered transactions. 2 CFR 1200 is incorporated by reference in this award and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on 2 CFR 1200.

Before entering into a subaward or contract under the grant, the Recipient must verify that the entity/individual is not excluded or disqualified from participation in federal nonprocurement or procurement programs. This can be done by:

- Checking the Excluded Parties List System (<http://www.epls.gov>), or
- Collecting a certification from that entity/individual, or
- Adding a clause or condition to the covered transaction with that entity/individual:

The Recipient must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidelines in 2 CFR 180, as supplemented by 2 CFR 1200.

The Recipient must inform the PHMSA Agreement Officer when the Recipient suspends or debar a contractor or subrecipient.

#### 10. Allowable costs

The allowability of costs incurred by the Recipient will be determined using the OMB cost principles in 2 CFR 225 (OMB Circular A-87) and HMEP-specific program requirements. If 2 CFR 225 specifies that a direct cost requires prior approval of the awarding agency and the cost was included in the approved budget, no additional PHMSA approval is required. Otherwise, prior approval is required as specified in paragraph 15 of these terms and conditions.

#### 11. Flow-Down of Requirements under Subawards

The requirements of this award that apply to the Recipient also apply to subrecipients, i.e., entities that are carrying out part of the substantive programmatic activity, unless an exception is specified.

In making subawards under the award, the Recipient must apply the federal cost principles applicable to the particular type of organization concerned. Therefore,

if a subaward is to a governmental unit (other than a college, university or hospital), 2 CFR 225 (OMB Circular A-

87) will apply;

if a subaward is to a college or university, 2 CFR 220 (OMB Circular A-21) will apply; .

if a subaward is to another type of non-profit organization, 2 CFR 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122), will apply.

The administrative requirements that must be flowed down to subrecipients are those that apply to the type of organization concerned. Therefore, if a subaward is made to a university, the requirements of 49 CFR 19 rather than 49 CFR 18 apply.

## 12. Matching requirement

The Recipient must provide 20 percent of the allowable direct and indirect planning costs of all activities covered under this award from non-federal sources. The Recipient must also provide 20 percent of the allowable direct and indirect training costs of all activities covered under this award from non-federal sources. Recipients may either use cash (hard match), in-kind (soft-match) contributions, or a combination of both to meet this requirement. The types of contributions allowed are listed in 49 CFR 110.60. Matching costs and contributions also must meet the requirements of 49 CFR 18.24, including that the costs must meet the same requirements of allowability as apply to HMEP funds.

Federal funds may be expended before non-federal matching funds, provided that total program costs at completion of the program year reflect the 80 percent federal/20 percent non-federal allocation of costs. The matching requirement is in addition to the maintenance of effort required of Recipients of HMEP awards under 49 U.S.C. 5116(a)(2)(A) and (b)(2)(A) and 49 CFR 110.30(b) (2) and (c) (2).

## 13. Performance and financial reporting requirements

### *Federal Financial Reports*

#### *Quarterly reports*

Each recipient is required to submit a quarterly Federal Financial Report (SF 425) to report the status of funds in the approved budget (federal plus matching) as of the end of the reporting quarter. This report is cumulative. Quarterly reports are due no later than 30 days after the end of each reporting quarter, i.e., January 31, April 30, and July 31.

#### *Final report*

Each recipient is required to submit a final Federal Financial Report (SF 425) within 90 days after the end of the program year, i.e., not later than December 31, that provides the financial results of the award, including the expenditure of both HMEP funds and required matching.

### *Address for submission*

Each required report must be submitted by e-mail to the Agreement Administrator named in Block 13 of the NGA.

**Requests for extension and effect of late reporting**

A request for extension of the due date for a quarterly report must be made in writing by the Recipient's PM to the Agreement Administrator no later than 30 days before the end of the reporting quarter. The request must include the reason for the request and the requested due date. Approval is not automatic.

A request for extension of the due date for a final report must be made in writing by the Recipient's PM to the Agreement Administrator no later than 30 days before the end of the performance period. The request must include the reason for the request and the requested due date. Approval is not automatic.

Failure to provide required reports by the due dates specified above or any extended due date approved by PHMSA may result in a delay in processing payment requests, delay in the award of new funding, or, as appropriate, an enforcement action.

**14. Reporting Subawards and Executive Compensation**

**Reporting of first-tier subawards**

Unless you are exempt as provided in the paragraph entitled "Exemptions" of this award term, you must report each action that obligates \$25,000 or more in federal funds that does not include Recovery funds (as defined in section 1512(a) (2) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5) for a subaward to an entity (see paragraph entitled "Definitions," in this award term).

**Where and when to report**

You must report each obligating action described in the previous paragraph of this award term to <http://www.fsrs.gov>.

For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

**What to report**

You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

**Reporting Total Compensation of Recipient Executives**

**Applicability and what to report**

You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total federal funding authorized to date under this award is \$25,000 or more;

ii. In the preceding fiscal year, you received-

(A) 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

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

Where and when to report

You must report executive total compensation described in the paragraph entitled "Applicability and what to report" for recipient executives of this award term:

- As part of your registration profile at <https://www.ccr.gov/>
- By the end of the month following the month in which this award is made, and annually thereafter.

**Reporting of Total Compensation of Subrecipient Executives**

Applicability and what to report

Unless you are exempt as provided in the paragraph entitled "Exemptions" of this award term below, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if-

i. in the subrecipient's preceding fiscal year, the subrecipient received-

(A) 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public

has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>

#### Where and when to report

You must report subrecipient executive total compensation described in "applicability and what to report" for subrecipient executives of this award term:

- To the recipient.
- By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

#### **Exemptions**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- Subawards, and
- The total compensation of the five most highly compensated executives of any subrecipient.

#### **Definitions**

For purposes of this award term:

*Entity* means all of the following, as defined in 2 CFR 25:

- A Governmental organization, which is a State, local government, or Indian tribe;
- A foreign public entity;
- A domestic or foreign nonprofit organization;
- A domestic or foreign for-profit organization;
- A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.

*Executive* means officers, managing partners, or any other employees in management positions.

#### **Subaward**

- This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

- The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

*Subrecipient* means an entity that:

- Receives a subaward from you (the recipient) under this award; and
- Is accountable to you for the use of the federal funds provided by the subaward.

*Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- Salary and bonus.
- Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- Above-market earnings on deferred compensation which is not tax-qualified.
- Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

#### 15. Changes to the approved application and budget

The Recipient must submit a written request and receive formal approval before making any of the changes for non-construction grants specified in 49 CFR 18.30. The request must be signed by the Recipient's Program Manager and submitted to the Agreement Administrator no later than 30 days prior to the requested effective date of the proposed change. PHMSA will not approve any change to the award during the last 30 days of the performance period.

The actions requiring prior approval include, but are not limited to the following:

- Any revision that would result in the need for additional funding

- Cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
- Changes in the scope or objectives in the approved application. If a Recipient has a question about whether a change represents a change in scope, the recipient should contact PHMSA.
- Change in the performance period, which must be requested no later than 30 calendar days prior to the end of the project period.
- Rebudgeting of HMEP funds from training to planning or from planning to training
- Change in the Recipient Program Manager.

If the proposed change affects the approved budget, the Recipient must submit a revised budget using the SF 424 budget form. If the request is for an extension of the period of performance, the Recipient must indicate the planned use of all unexpended funds during the extension period.

The AA will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved. If a request is approved, the approval may be by letter or, if necessary, a formal amendment to this award signed by the Agreement Officer.

#### 16. Title to Equipment

Title to equipment purchased or fabricated under this award vests in the Recipient or subrecipients, respectively, upon acquisition except that DOT reserves the right to require the Recipient or subrecipient to transfer title to items of equipment to the federal government or a third party named by DOT, when such a third party is otherwise eligible under existing statutes. Such transfers are subject to the standards contained in 49 CFR 18.32.

#### 17. Copyrights

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

- The copyright in any work developed under a grant, subaward, or contract under a grant or subaward; and
- Any rights of copyright to which a Recipient, subrecipient or a contractor purchases ownership with grant support.

#### 18. Payment

##### *Request for Advance or Reimbursement*

Payment to a Recipient may be made in advance, consistent with 49 CFR 18 and 31 CFR 205. To obtain an advance, the Recipient must comply with the requirements of 49 CFR 110.70(c). If these conditions are not met, payment will be made by reimbursement.

### ***Delphi Invoicing System for Department of Transportation (DOT) Financial Assistance Awardees***

Subject to the requirements in 49 CFR 18.21, payments will be made after receipt of required modal reporting forms. Each payment request must be made electronically via the Delphi Invoicing System.

PHMSA will promptly review the request and, upon approval, submit the request electronically through the Delphi Invoicing System for payment processing. PHMSA reserves the right to request supporting documentation upon receipt of payment requests. Failure to comply can result in a denial of payment.

The following are the procedures for accessing and utilizing the Delphi Invoicing System.

#### **A. Grant Recipient Requirements**

- Grantees must have internet access to register and submit payment requests through the Delphi Invoicing system.
- Grantees must submit payment requests electronically and DOT Operating Administrations must process payment requests electronically.

#### **B. System User Requirements**

- Grantees should contact the DOT Operating Administration's grants office directly to sign up for the system. The Operating Administration awarding the grant will provide the grantee's name and email address to the DOT Financial Management Office. The DOT will then invite the grantee to sign up for the system.
- The DOT will send the grantee a form to verify the grantee's identity. The grantee must complete the form, and present it to a Notary Public for verification. The grantee will return the notarized form to:

DOT Enterprise Services Center  
FAA Accounts Payable, AMZ-100  
PO Box 25710  
Oklahoma City, OK 73125

- The DOT will validate the form and email a user ID and password to the grantee. Grantees should contact the Operating Administration's grants office with any changes to their system information.

Note: Additional information, including access forms and training materials, can be found on the DOT Invoicing website (<http://www.dot.gov/cfo/delphi-invoicing-system.html>)

#### **C. Waivers**

DOT Financial Management officials may, on a case by case basis, waive the requirement to register and use the electronic grant payment system. Waiver request forms can be obtained on the DOT Invoicing website (<http://www.dot.gov/cfo/delphi-invoicing-system.html>) or by contacting the Operating Administration's grants office. Recipients must explain why they are unable to use or access the internet to register and enter payment requests.

All waiver requests should be sent to the Director of the Office of Financial Management, US Department of Transportation, Office of Financial Management, B-30, room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, [DOTElectronicInvoicing@dot.gov](mailto:DOTElectronicInvoicing@dot.gov). The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

If a grantee is granted a waiver, the grantee should submit all hard-copy invoices directly to:

DOT/FAA  
PO Box (OA specific- Needs to be modified)  
Oklahoma City, OK 73125

The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Financial Assistance awardees.

#### *Electronic funds transfer*

The Government will make all payments under this agreement by electronic funds transfer (EFT) unless the Recipient is notified to the contrary. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

The Government will make payment to the Recipient using the EFT information contained in the CCR database. If the EFT information changes, the Recipient is responsible for providing the updated information to the CCR database. If the Recipient's EFT information in the CCR database is incorrect, the Government is not obligated to make payment to the Recipient until the correct EFT information is entered into the CCR database.

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

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

Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for making a correct payment and recovering any erroneously directed funds.

#### *EFT and assignment of claims*

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

considered incorrect EFT information.

#### 19. Audit requirements

OMB Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations," includes specific guidance for conducting financial and compliance audits. The threshold for requiring an A-133 audit is \$500,000 in expenditures of federal funds in an entity's fiscal year. This amount is the aggregate of funds from all federal sources. OMB Circular A-133 is incorporated by reference into this award and is available at [http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf)

#### 20. Record retention and access to records

Grant-related financial and programmatic records, supporting documents, statistical records, and other records of Recipients or sub-recipients must be maintained as provided in 49 CFR 18.42(a) through (d) (or 49 CFR 19.53, if applicable)

Site visits, desk audits, or other reviews

PHMSA, through its staff or authorized representatives, may make site visits, at reasonable times; to review project accomplishments, management control systems and provide guidance as may be requested or required. If a site visit is made on the premises of the Recipient, the Recipient must provide reasonable facilities and assistance to PHMSA representatives in the performance of their duties.

PHMSA, through its authorized representatives, may request a desk audit, at reasonable times; to review project accomplishments, management control systems and provide guidance as may be requested or required. If a desk audit is conducted, the Recipient is required to provide; electronically or via postal service all records requested by PHMSA representatives. All desk audits and reviews will be performed in a manner to not unduly delay work activity under the award.

If PHMSA requires access to the records of a subrecipient or contractor under the grant, whether as part of a site visit or for another type of review, PHMSA will coordinate the request with the Recipient.

All site visits and evaluations will be performed in a manner to not unduly delay work activity under the award or other activities of the Recipient, subrecipient, or contractor.

#### 21. Contracting with Small and Minority Firms, Women's Business Enterprises, Veteran Owned, and HubZone Area Firms

DOT's policy is to award a fair share of contracts to small minority business, women-owned and HubZone firms. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness on the awarding of any contracts under DOT grants or cooperative agreements.

The Recipient and any subrecipients are encouraged to take all necessary affirmative steps to assure that small, women-owned, minority disadvantaged businesses, veteran, and HUBZone business firms are used when possible. The Recipient shall include this award term in all subawards.

Affirmative steps include:

- Placing qualified small and minority-disadvantaged businesses, women owned business enterprises, veteran-owned and HUBZone business firms on solicitation lists;
- Ensuring that small and minority businesses, women's business enterprises, veteran-owned and HUB Zone business firms are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority businesses, women's business enterprises, veteran-owned, and HUBZone business firms;
- Establishing delivery schedules, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority business, women's business enterprises, veteran-owned, and HUBZone business firms; and
- Using the services and assistance of the Small Business Administration and the DOT Office of Small and Disadvantaged Business Utilization, as appropriate.

## 22. Seat Belt Use Policies and Programs

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating government-owned, company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle up America section on NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

## 23. Texting While Driving

In accordance with Executive Order, 13513, recipients, subrecipients, and their contractors are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or government-owned vehicles, or while driving personally owned vehicles when on official Government business or when performing any work for or on behalf of the Government. These efforts may include conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving and should encourage voluntary compliance with the entity's text messaging policy while off duty.

## 24. Information Collection

Under the Paperwork Reduction Act (PRA), if a Recipient collects the same information from 10 or more respondents as part of carrying out this award, the Recipient is prohibited from representing to its respondents that information is being collected for, or in association with, the federal government unless

the Recipient is conducting the collection of information at the specific request of the agency; or the terms and conditions of the grant require specific approval by the agency of the collection of information or collection procedures. In those cases, the OMB PRA clearance procedures contained in 5 CFR 1320 must be followed. However, nothing in this award requires Recipients to collect information on PHMSA's behalf or to obtain PHMSA approval of any information collection a Recipient might deem necessary under this award.

#### 25. Fraud, Waste, or Abuse

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

DOT Inspector General  
1200 New Jersey Avenue, SE West Bldg. 7<sup>th</sup> Floor  
Washington, DC 20590  
Phone: 1.800.424.9071

Email: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)

Web: <http://www.oig.dot.gov/hotline>

