



**GUIDANCE TO STATE ADMINISTRATIVE AGENCIES
TO EXPEDITE THE EXPENDITURE OF CERTAIN
DHS/FEMA GRANT FUNDING**

February 13, 2012




Grant Programs Directorate



Homeland Security

February 13, 2012

MEMORANDUM FOR: State Administrative Agencies

FROM: Secretary Janet Napolitano 

SUBJECT: Expenditure of Certain DHS/FEMA Grant Funding

During the last 10 years, federal investments in state and local preparedness capabilities have developed significant national capacity to prevent, protect against, prepare for, respond to and recover from disasters of all kinds. For example, the response to the BP Deepwater Horizon oil spill, tornadoes in Alabama and Missouri, and Hurricane Irene helped save lives and minimize damage due to the training, equipment, technology, and capabilities developed through the DHS/FEMA preparedness grants.

Recognizing the critical importance the preparedness grants have at the state and local level to support these efforts, DHS/FEMA has undertaken a number of significant initiatives to ensure that the funds are made available for use quickly and efficiently. Grant funding for projects that do not require Environmental and Historical Preservations (EHP) Reviews is made available to the State Administrative Agencies (SAAs) immediately upon award. In addition, over the past year, FEMA has:

- Streamlined the grant budget review process for the Port Security Grant Program (PSGP) and Transit Security Grant Program (TSGP) to ensure that initial budget proposals are reviewed and approved prior to the issuance of an award, thereby enabling grantees to draw down funds more quickly.
- Increased the number of federal staff to eliminate the Environmental and Historical Preservations (EHP) Reviews grant request backlog; removed the up-front EHP Review hold for Transit Security Grant capital projects; and simplified the EHP Review clearance form, consolidating the documentation required and enabling staff to more quickly determine whether the project is eligible for a categorical exclusion.
- Provided ongoing technical assistance to grantees with documented challenges managing federal funds and tailoring intensive, short-term deliverables to address their needs.

DHS/FEMA appreciates the significant work that our grantees have undertaken to administer all of the grant programs that have increased preparedness nationwide. While much has been done, more remains to be accomplished in the years ahead.

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As of January 2012, nearly \$8.3 billion in previously awarded grant funding is available for expenditure. These funds are not idle; work is being performed, projects are underway, and capabilities are being built in accordance with the rules and guidelines under which these grants were accepted. Nonetheless, in light of the current economic situation and the need for further fiscal stimulus, DHS/FEMA have evaluated ways to further streamline the grants process and put available funding to work now.

Accordingly, as described below, DHS/FEMA will implement a number of measures that provide grantees with additional flexibility to accelerate the spending of remaining FY 2007-2011 DHS/ FEMA grant funds (including formula grant programs), consistent with existing laws, regulations, and programmatic objectives. These measures will apply also to FY 2012 grant awards.¹ These measures apply to the following grants:

- Buffer Zone Protection Program (BZPP)
- Driver's License Security Grant Program (DLSGP)
- Emergency Operations Center (EOC)
- Freight Rail Security Grant Program (FRSGP)
- Homeland Security Grant Program (HSGP)
 - State Homeland Security Program (SHSP)
 - Urban Areas Security Initiative (UASI)
 - Operation Stonegarden (OPSG)
 - Metropolitan Medical Response Grants (MMRS)
 - Citizen Corps Program (CCP)
- Intercity Bus Security Grant Program (IBSGP)
- Intercity Passenger Rail Security Grant Program (IPR)
- Interoperable Emergency Communications Grant (IECGP)
- Non-Profit Security Grant Program (NSGP)
- National Special Security Event (NSSE) Grant
- Port Security Grant Program (PSGP)
- Regional Catastrophic Preparedness Grant Program (RCPGP)
- Transit Security Grant Program (TSGP)
- Tribal Homeland Security Grant Program (THSGP)

Measures to Increase Flexibility and Expedite the Drawdown of Grant Funds

The following measures are designed to support grantee efforts to put grant funding to work quickly by addressing immediate needs and building core capabilities that will support

¹ Grantees are advised to refer to the applicable FY 2012 program guidance and application kit (i.e., SHSP, THSGP, EMPG, etc.) for the program which they seek to apply this Guidance to.

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preparedness in the long run. These measures apply only to FY 2007-2012 grant funding. To ensure that continuous and consistent drawdown occurs moving forward, DHS/FEMA plans to include efficient execution of grant funds as a measure of effectiveness in FY 2013 and beyond.

Reprioritization of Funds

- DHS/FEMA will allow grantees to apply previously awarded FY 2007-2011 grant balances towards more urgent priorities by way of an expedited project approval by DHS/FEMA Grant Programs Directorate (GPD). Specifically, this allows expenditure on general purpose equipment and overtime/backfill expenses for first responders engaged in protection or prevention activities consistent with grant guidance and the *Homeland Security Act* (6 USC 101 et seq.). As a condition of such application, both equipment purchases and overtime/backfill costs must align to and support one or more core capabilities in the National Preparedness Goal. Further, equipment must be sharable through the Emergency Management Assistance Compact (*see also Building and Sustaining Core Capabilities*).
- DHS/FEMA will expand allowable expenses under the Port and Transit Security Grant Program, in accordance the *SAFE Port Act* and *9/11 Act*, respectively. For the Port Security Grant Program (PSGP), allowable costs include those listed within 46 U.S.C. Section 70107(b) (*eligible costs*) that do not involve construction. Applicable transit program² costs may include the eight (8) uses of operational funds as outlined in the *9/11 Act*, Pub. L. No. 110-53, Section 1406. To the extent possible, DHS/FEMA maintains its commitment to support existing critical infrastructure hardening projects under TSGP, and will seek to expedite the federal approval process for projects where a contract is currently in place, an environmental review has been completed, and the designs have been approved.
- DHS/FEMA will allow combating violent extremism (CVE) activities as defined by the Administration's CVE Strategy³ to be eligible in all grant years for the Homeland Security Grant Program (HSGP) (previously limited to FY 2011 HSGP under Priority Two: Building Prevention and Protection Capabilities).

Waivers

- DHS/FEMA will automatically waive the requirement that 2008 and 2009 Homeland Security Grant Program (HSGP) grantees allocate 25 percent of their funding toward countering improvised explosive devices (IEDs), planning, training and exercises.
- DHS/FEMA will waive the 50 percent cap on personnel costs for grants upon request to the FEMA Administrator.

² Includes Transit Security Grant Program (TSGP), the TSGP Intercity Passenger Rail, and the TSGP Freight Rail Security Grant Program (FRSGP).

³ http://www.whitehouse.gov/sites/default/files/empowering_local_partners.pdf

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- DHS/FEMA will consider requests for waivers to match requirements under FY 2008 and 2009 Port Security Grant for public sector grantees on a case by case basis, per the existing DHS/FEMA guidance.⁴
- DHS/FEMA will consider requests for waivers to match requirements for the Nonprofit Security Grant Program, the Interoperable Emergency Communications Grant Program and Regional Catastrophic Planning Grant Program⁵ on a case-by-case basis.

Building and Sustaining Core Capabilities

- In support of the National Preparedness Goal and to provide grantees the flexibility necessary to meet the intent of this guidance by funding projects that build and sustain the capabilities necessary to prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk to the security of the Nation, DHS/FEMA's policy on maintenance and sustainment will be expanded to allow for the support of equipment, training, and critical resources that have previously been purchased with either federal grants or any other source of funding.
- Eligibility for sustaining these costs in direct support of existing capabilities must be an otherwise allowable expenditure under the applicable grant program, be tied to one of the core capabilities in the five mission areas contained within the National Preparedness Goal, and be sharable through the Emergency Management Assistance Compact.
- This policy will apply to all open grant years from FY 2007-2012.

Period of Performance:

Subject to certain exceptions, grantees are required to take steps to expend, draw down and close out DHS/FEMA grant funding. If those funds have not been spent by the dates outlined below, DHS/ FEMA will reclaim them to the extent permitted by law.

- All FY 2007 grant funding must be spent by June 30, 2012.
- All FY 2008 and 2009 grant funding must be spent by September 30, 2012⁶.
- All FY 2010 funding must be spent by September 30, 2013.
- All FY 2011 and FY 2012 funding must be spent by the end date cited on the award agreement.

To meet these deadlines, State Administrative Agencies (SAAs) and other grantees should work collaboratively and transparently with sub-recipients of DHS/FEMA grants. Agencies are

⁴ Refer to FEMA Grant Programs Directorate's Information Bulletin #376, dated January 4, 2012, and located at <http://www.fema.gov/pdf/government/grant/bulletins/info376.pdf>.

⁵ NSGP has 25% optional cost share; IECGP has a 25% cost share for equipment purchases only, and RCPGP has 25% cost share.

⁶ This excludes any open FY 2008 and FY 2009 award that received an extension from FEMA which goes beyond September 30, 2012, as of January 1, 2012

encouraged to reduce administrative hurdles that can delay expenditure of funds, as well as decrease delays between receipt of invoices and expenditure of corresponding funds. In addition, agencies should implement programmatic safeguards to protect against unnecessary delays that would otherwise extend current spending timelines beyond the deadlines established in this memorandum.

Extensions:

The periods of performance outlined above support the effort to expedite the outlay of grant funding and provide economic stimulus. Agencies should request waivers sparingly, and they will be granted only due to compelling legal, policy, or operational challenges. For example, SAAs may request waivers from the deadlines outlined above for discretionary grant funds where adjusting the timeline for spending will constitute a verifiable legal breach of contract by the grantee with vendors or sub-recipients, or where a specific statute or regulation mandates an environmental review that cannot be completed within this timeframe or where other exceptional circumstances warrant a discrete waiver.

Agencies must submit all proposed extension requests to DHS/FEMA for review and approval by April 30, 2012.

SAAs shall clearly communicate the requirements of this memorandum to grant sub-recipients through adding these requirements to new grant agreements, modifying terms and conditions of existing grant agreements, or other appropriate written means consistent with law. Further guidance and answers to frequently asked questions will be provided to grantees by DHS/FEMA GPD.