



U.S. DEPARTMENT OF HOMELAND SECURITY

**FISCAL YEAR 2009**

**OPERATION STONEGARDEN SUPPLEMENTAL**

**GUIDANCE AND APPLICATION KIT**

**AUGUST 2009**



U.S. DEPARTMENT OF HOMELAND SECURITY

**Title of Opportunity:** FY 2009 Operation Stonegarden Supplemental (OPSG-S)

**Funding Opportunity Number:** DHS-09-GPD-067-2325

**Federal Agency Name:** Department of Homeland Security/Federal Emergency Management Agency

**Announcement Type:** Initial

**Dates:** Completed applications must be submitted **no later than 11:59 PM EDT, August 25, 2009.**

**Additional overview information:** The FY 2009 OPSG Supplemental funds must be used to increase operational capabilities of Federal, State, local and tribal law enforcement, promoting a layered, coordinated approach to law enforcement within the U.S. Southwest Border States that border Mexico.

FY 2009 OPSG Supplemental eligible applicants include the State Administrative Agency (SAA) within the four (4) Southwest Border States on behalf of 29 County-level recipients of FY 2009 OPSG awards.

The following modifications to allowable spending of funds have been made to FY 2009 OPSG Supplemental:

- Funds may be used to activate reserve State, local and tribal law enforcement personnel (cannot hire new peace officers)
- Funds may be used to pay current part time law enforcement personnel salary bringing them to full time status
- Funds may be used for travel, per-diem and lodging to support up to six (6) month deployment of law enforcement personnel to critical Southwest Border locations to support operational activities
- Fuel and/or fuel mileage reimbursement cap for operation activities is removed
- Backfill costs for personnel supporting operational activities are allowable
- Use of funds to increase operational, material and technological readiness of State, local and tribal law enforcement agencies continue to be allowable

The *Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act* (P. L. 110-412) established that no more than 50 percent of the amount of the award to a grant recipient may be used for personnel costs (which includes, but is not limited to: overtime, backfill, and increasing capability by utilizing part-time and/or reserve law enforcement to support OPSG operational activities). However, at the request of a grant recipient, the FEMA Administrator may waive the 50 percent personnel cap. Waiver decisions are at the discretion of the FEMA Administrator and will be considered on a case-by-case basis.

A formal FY 2009 OPSG personnel waiver request should:

- Be requested on official letterhead, include a written justification, and be signed by the authorized representative of the State Administrative Agency (SAA)
- Include a budget and method of calculation of personnel costs both in percentage of the grant award and in total dollar amount. To avoid supplanting issues, the request must also include a three-year staffing history for the requesting entity.
- Include an approved Operations Order from the Customs and Border Protection/Office of Border Patrol (CBP/BP) Sector office which supports the SAA's written justification
- Be forwarded electronically by the SAA to FEMA's Grant Programs Directorate (GPD) Program Analyst

# CONTENTS

Contents.....	1
Part I. FUNDING OPPORTUNITY DESCRIPTION.....	2
Part II. AWARD INFORMATION .....	4
Part III. ELIGIBILITY INFORMATION .....	6
A. Eligible Applicants.....	6
B. Cost Sharing .....	6
C. Restrictions .....	6
D. Other .....	7
Part IV. APPLICATION AND SUBMISSION INFORMATION.....	8
A. Address to Request Application Package .....	8
B. Content and Form of Application .....	8
C. Submission Dates and Times .....	9
D. Intergovernmental Review .....	9
E. Funding Restrictions .....	9
Part V. APPLICATION REVIEW INFORMATION .....	12
A. Review Criteria.....	12
B. Review and Selection Process .....	12
C. Anticipated Announcement and Award Dates .....	12
Part VI. AWARD ADMINISTRATION INFORMATION .....	13
A. Notice of Award .....	13
B. Administrative and National Policy Requirements .....	14
C. Reporting Requirements .....	21
Part VII. FEMA CONTACTS.....	24

## PART I.

# FUNDING OPPORTUNITY DESCRIPTION

Operation Stonegarden Supplemental (OPSG-S) provides funding to designated localities to enhance cooperation and coordination between Federal, State, local, and tribal law enforcement agencies in a joint mission to secure the United States Southwest Border.

Since its inception, the intent of Operation Stonegarden has been to enhance law enforcement preparedness and operational readiness along the borders of the United States. In Fiscal Year (FY) 2006, the *Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006* (Public Law 109-234) provided a one-time appropriation of grant funding for use at the discretion of the Secretary of the Department of Homeland Security (DHS) to supplement initial priority border operations within the four Southwest Border States. As appropriated by the *Consolidated Appropriations Act, 2008* (Public Law 110-161), the FY 2008 OPSG provided \$60,000,000 for local units of government to increase coordination and local capability in support of Departmental goals including those of the U.S. Customs and Border Protection (CBP) outlined in the *National Border Patrol Strategy*. Through the FY 2008 OPSG, 64 Operations Orders were received from 12 States by the Federal Emergency Management Agency (FEMA). The 12 States received awards ranging from \$270,000 to \$13,040,000; the Operations Orders were funded in amounts ranging from \$50,000 to \$6,000,000. As appropriated by the *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009* (Public Law 110-329), the FY 2009 OPSG provided \$60,000,000 for local units of government at the county level or equivalent and Federally-recognized tribes<sup>1</sup> that applied for Federal funds through the State Administrative Agency (SAA). In FY 2009, OPSG was enhanced to effectively address the constantly changing threats to our borders based upon new, emerging, and changing intelligence. Through the FY 2009 OPSG, 131 Operations Orders were received from 32 States and territories by FEMA. Thirteen States and the territory of Puerto Rico received awards ranging from \$229,008 to \$16,719,377.

As appropriated by the *Supplemental Appropriations Act, 2009* (Public Law 111-32), the FY 2009 OPSG Supplemental of \$30,000,000 will support U.S. Southwest Border States in:

- Increasing capability to prevent, protect against, and respond to border security issues
- Encouraging local operational objectives and capabilities to enhance National and State Homeland Security Strategies

---

<sup>1</sup> Federally-recognized tribe has the same meaning as the term 'Indian tribe' in section 4(e) of the *Indian Self-Determination Act* (25 U.S.C. 450b(e)).

- Increasing coordination and collaboration among Federal, State, local and tribal law enforcement agencies
- Continuing the distinct capability enhancements required for border security and border protection
- Providing intelligence-based operations through CBP/Border Patrol (BP) Sector Level experts to ensure safety and operational oversight of Federal, State, local, and tribal law enforcement agencies participating in OPSG Supplemental operational activities
- Continuing to increase operational, material and technological readiness of State, local and tribal law enforcement agencies

## PART II. AWARD INFORMATION

This section summarizes the award period of performance and the total amount of funding available under the FY 2009 OPSG Supplemental, describes the basic distribution method used to determine final grants awards, and identifies all eligible applicants for FY 2009 OPSG Supplemental funding.

### ***Award Period of Performance***

The period of performance of this grant is 36 months. Extensions to the period of performance will be considered only through formal requests to FEMA with specific and compelling justifications why an extension is required.

### ***Available Funding***

In FY 2009, the total amount of funds distributed under OPSG Supplemental will be \$30,000,000. FY 2009 OPSG Supplemental funds will be allocated based on risk-based prioritization using CBP Sector-specific border risk to include, but not limited to: threat, vulnerability, miles of border, and other border-specific “law enforcement intelligence” and feasibility of FY 2009 Operation Orders to designated localities within the four Southwest Border States.

**Table 1. FY 2009 OPSG Supplemental Funding State Allocations**

State	Allocation
Arizona	\$7,223,737
California	\$7,391,931
New Mexico	\$2,599,002
Texas	\$12,785,330
<b>Total</b>	<b>\$30,000,000</b>

**Table 2. FY 2009 OPSG Supplemental Funding County-level Allocations**

State	Operational County	Allocation
Arizona	Santa Cruz County	\$1,539,921
Arizona	Pima County	\$1,538,665
Arizona	Cochise County	\$1,537,409
Arizona	Yuma County	\$2,607,742
California	San Diego	\$4,992,606
California	Imperial	\$2,399,325
New Mexico	Hidalgo	\$661,680
New Mexico	Grant	\$332,622
New Mexico	Luna	\$639,077

New Mexico	Dona Ana	\$965,623
Texas	Zapata County	\$1,413,737
Texas	Webb County	\$1,412,481
Texas	Willacy County	\$300,611
Texas	Hidalgo County	\$500,762
Texas	Refugio County	\$299,356
Texas	Nueces County	\$296,844
Texas	Aransas County	\$293,077
Texas	Starr County	\$493,228
Texas	Cameron County	\$493,228
Texas	Kleberg County	\$288,054
Texas	San Patricio County	\$288,054
Texas	Yselta del Sur Pueblo Tribe	\$656,657
Texas	El Paso County	\$642,844
Texas	Jeff Davis County	\$927,849
Texas	Presidio County	\$921,570
Texas	Brewster County	\$920,315
Texas	Kinney County	\$878,991
Texas	Val Verde County	\$878,991
Texas	Maverick County	\$878,681
<b>Total</b>		<b>\$30,000,000</b>



## PART III.

# ELIGIBILITY INFORMATION

### A. Eligible Applicants

The Governor of each State is required to designate a State Administrative Agency (SAA) to apply for and administer the funds awarded under the FY 2009 OPSG Supplemental. **The SAA is the only entity eligible to apply to FEMA for FY 2009 OPSG Supplemental funds on behalf of the county or similar level of government and Federally-recognized tribal governments.**

To be eligible to receive FY 2009 OPSG Supplemental funding, applicants must meet NIMS compliance requirements. The NIMSCAST will be the required means to report FY 2008 NIMS compliance for FY 2009 preparedness award eligibility. All State and territory grantees were required to submit their compliance assessment via the NIMSCAST by September 30, 2008 in order to be eligible for FY 2009 preparedness programs. The State or territory department/agency grantee reserves the right to determine compliance reporting requirements of their sub-awardees (locals) in order to disperse funds at the local level.

For FY 2009, there are no new NIMS compliance objectives. If FY 2008 NIMS compliance was reported using NIMSCAST and the grantee has met all NIMS compliance requirements, then NIMSCAST will only require an update in FY 2009. Additional information on achieving compliance is available through the FEMA National Integration Center (NIC) at <http://www.fema.gov/emergency/nims/>.

Eligible applicants include the State Administrative Agency (SAA) within the four (4) Southwest Border States on behalf of 29 County-level recipients of FY 2009 OPSG awards within the four (4) Southwest Border States, as listed in Tables 1 and 2 in Part II.

### B. Cost Sharing

There is no required cost sharing, matching, or cost participation for the FY 2009 OPSG Supplemental.

### C. Restrictions

Please see Part IV.E. for Management & Administration (M&A) limits and allowable/unallowable costs guidance.

## **D. Other**

### ***Federal, State, Local, and Tribal OPSG Coordination Working Group***

It is recommended that Federal, State, local, and tribal partners establish and maintain an OPSG Working Group with representation from all participating law enforcement agencies, that is co-chaired by representatives from CBP/BP, the SAA, and participating law enforcement agencies' OPSG program representatives.

### ***Coordination Requirements***

After awards are announced, prospective grant recipients must amend their original FY 2009 draft Operations Orders with an embedded budget, based on actual dollar amounts to be awarded. Those final Operations Orders will be approved by the appropriate Sector Headquarters, and forwarded to Headquarters, Office of Border Patrol, Washington, D.C., before funding is released.

Grantees may not begin operations or draw down any funding until the Operations Order and embedded budget has been approved by FEMA GPD and CBP/BP Headquarters and any existing special conditions and/or restrictions are removed. FY 2009 OPSG Supplemental activities are expected to maximize Homeland Security Grant Program (HSGP) strategic planning efforts and integration with the State and territory Homeland Security Strategies.

**PART IV.**  
**APPLICATION AND SUBMISSION**  
**INFORMATION**

**A. Address to Request Application Package**

Applications for this supplemental funding must be submitted using the Office of Justice Programs Grants Management System (GMS). To access GMS, please go to <https://grants.ojp.usdoj.gov/>.

**B. Content and Form of Application**

**1. On-line application.** The on-line application must be completed and submitted using GMS. The on-line application includes the following required forms and submissions:

- Standard Form 424, Application for Federal Assistance
- Standard Form 424A, Budget Information
- Standard Form 424B Assurances (must be submitted as signed attachment)
- Certification Regarding Lobbying
- Standard Form LLL, Disclosure of Lobbying Activities (only required if the applicant has engaged in lobbying activities)

The program title listed in the Catalog of Federal Domestic Assistance (CFDA) is “*Homeland Security Grant Program.*” The CFDA number is **97.067**.

**2. DUNS number.** The applicant must provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their application. This number is a required field within GMS. Organizations should verify that they have a DUNS number, or take the steps necessary to obtain one, as soon as possible. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at (866) 705-5711.

**3. Operations Order.** Upon award, the recipient must amend their original draft FY 2009 OPSG Operations Orders to include funding from the supplemental awards. The recipient may only fund activities included in an approved FY 2009 OPSG Operations Order submitted to DHS, and evaluated and approved through the Federal Review process. Each local unit of government at the county level or Federally-recognized tribal government recipient must amend their Operations Order in coordination with State and Federal law enforcement agencies, to include, but not limited to CBP/BP. Operations Orders that are developed at the county level should

be inclusive of city, county, tribal, and other local law enforcement agencies that are eligible to participate in OPSG operational activities, and the Operations Order should address this in the Executive Summary. The details should include the names of the agencies, the points of contact, and the individual funding requests.

Upon award, each applicant is required to submit an annual budget addressing OPSG Supplemental related costs and expenses as part of their amended Operations Order. This budget should be detailed and should serve to: (1) explain how the costs were estimated, and (2) justify the need for the costs incurred. For clarification purposes, the Operations Order may include tables describing cost and expense elements (e.g., equipment, fuel, vehicle maintenance costs).

See Part IV of FY 2009 OPSG Guidance and Application Kit for Operations Order Template.

### **C. Submission Dates and Times**

Completed applications must be submitted electronically through GMS **no later than 11:59 PM EDT, August 25, 2009**. Late applications will neither be considered, nor reviewed.

### **D. Intergovernmental Review**

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services within a State to submit a copy of the application to the State Single Point of Contact (SPOC), if one exists, and if this program has been selected for review by the State. Applicants must contact their State SPOC to determine if the program has been selected for State review. Executive Order 12372 can be referenced at <http://www.archives.gov/federal-register/codification/executive-order/12372.html>. The names and addresses of the SPOCs are listed on OMB's home page available at: <http://www.whitehouse.gov/omb/grants/spoc.html>.

### **E. Funding Restrictions**

- 1. Management and Administrative (M&A) Costs.** M&A costs are not allowable under the FY 2009 OPSG Supplemental.
- 2. Allowable Costs.** The intent of this grant is to focus on operational aspects of enhancing coordination between Federal, State, local, and tribal law enforcement agencies to increase the security of the U.S. Borders. While equipment is an allowable expense, the FY 2009 OPSG Supplemental is not intended to be an equipment-centric grant.
  - **Operational Overtime.** Operational overtime costs associated with law enforcement activities, in support of border law enforcement agencies for increased border security enhancement. Per the *PRICE of Homeland*

*Security Act* (Public Law 110-412), all grantees are allowed to utilize up to 50 percent of their FY 2009 OPSG Supplemental funding for personnel related costs, which include overtime activities. At the request of a grant recipient, the FEMA Administrator may waive the 50 percent personnel cap. Waiver decisions are at the discretion of the FEMA Administrator and will be considered on a case-by-case basis. A formal FY09 OPSG Supplemental personnel waiver request should:

- Be requested on official letterhead, include a written justification, and be signed by the authorized representative of the State Administrative Agency (SAA)
  - Include a budget and method of calculation of personnel costs both in percentage of the grant award and in total dollar amount. To avoid supplanting issues, the request must also include a three-year staffing history for the requesting entity.
  - Include an approved Operations Order from the Customs and Border Protection/Office of Border Patrol (CBP/BP) Sector office which supports the SAA's written justification
  - Be forwarded electronically by the SAA to FEMA's Grant Programs Directorate (GPD) Program Analyst
- **Part Time Personnel.** FY 2009 OPSG Supplemental funds may be used to pay additional current part time law enforcement personnel salaries in order to bring them to full time status.
  - **Travel, Per Diem and Lodging.** Travel and per diem costs associated with the deployment/redeployment of personnel to border areas and for travel associated with law enforcement entities assisting other local jurisdictions in law enforcement activities. In addition, costs to support up to six (6) month deployment of law enforcement personnel to critical Southwest Border locations to support operational activities (travel costs must be in accordance with applicable travel regulations).
  - **Vehicle and Equipment Rentals**
  - **Vehicle/Equipment Maintenance**
  - **Fuel Cost and/or Mileage Reimbursement.** The reimbursement cap for operational activities is removed under FY 2009 Supplemental.
  - **Equipment.** FY 2009 OPSG Supplemental funds may also be used for equipment replacement costs and acquisition of equipment listed under the Urban Areas Security Initiative (UASI) and Law Enforcement Terrorism Prevention equipment categories found in the Authorized Equipment List (AEL). The FY 2009 AEL is available in its entirety online through the Responder Knowledge Base (RKB) at <https://www.rkb.us/>
  - **Activate Reserve State, local, and tribal law enforcement personnel**
  - **Backfill.** Costs associated with backfill for personnel supporting operational activities.
3. **Unallowable Costs.** Unallowable costs include costs associated with staffing and general IT computing equipment and hardware, such as personal computers, faxes, copy machines, modems, etc. The FY 2009 OPSG Supplemental is not intended as

a hiring program. Therefore, applying funds toward hiring full-time or permanent sworn public safety officers is also unallowable. FY 2009 OPSG Supplemental funding shall not be used to supplant inherent routine patrols and law enforcement operations or activities not directly related to providing enhanced coordination between local and Federal law enforcement agencies. Applicants should contact their FEMA Program Analyst at (800) 368-6498 for guidance and clarification. Finally, construction and/or renovation costs are prohibited under this grant application.

## PART V.

# APPLICATION REVIEW INFORMATION

### **A. Review Criteria**

This section summarizes the core process and priorities used to assess applications under the FY 2009 OPSG Supplemental. The FY 2009 OPSG Supplemental used risk-based prioritization using CBP Sector-specific border risk to include, but not limited to: threat, vulnerability, miles of border, and other border-specific “law enforcement intelligence.” Each applicant’s final funding allocation was determined by using a combination of the results of the risk analysis and feasibility of FY 2009 OPSG Operation Orders.

### **B. Review Process**

The following process will be used to provide final approval to Operation Orders submitted under the FY 2009 OPSG Supplemental:

FEMA will verify compliance with all administrative and eligibility criteria identified in the application kit.

CBP/BP Sector Headquarters will provide a review for completeness and adherence to programmatic guidelines, as well as consideration of need and impact.

CBP/BP Headquarters and FEMA will evaluate the Operations Order on allowability and the anticipated feasibility of activities.

Upon award, the recipient may only fund activities included in an approved FY 2009 Supplemental Updated Operations Order submitted to DHS, and evaluated and approved through the Federal review process.

### **C. Anticipated Announcement and Award Dates**

FEMA will evaluate and act on applications as quickly as possible following the close of the application period. Awards will be made on or before September 30, 2009.

## PART VI.

# AWARD ADMINISTRATION INFORMATION

### A. Notice of Award

Upon approval of an application, the grant will be awarded to the grant recipient. The date that this is done is the “award date.” Notification of award approval is made through the Grants Management System (GMS). Once an award has been approved, a notice is sent to the authorized grantee official. Follow the directions in the notification and log into GMS to access the award documents. The authorized grantee official should carefully read the award and special condition documents. If you do not receive a notification, please contact your Program Analyst for your award number. Once you have the award number, contact the GMS Help Desk at (888) 549-9901, option 3, to obtain the username and password associated with the new award.

Awards made to SAAs for the FY 2009 OPSG Supplemental carry additional pass-through requirements. Pass-through is defined as an obligation on the part of the States to make funds available to local units of government, combinations of local units, or other specific groups or organizations. The State’s pass-through period must be met within 45 days of the award date for the FY 2009 OPSG Supplemental.<sup>2</sup> Four requirements must be met to pass-through grant funds:

- There must be action to establish a firm commitment on the part of the awarding entity
- The action must be unconditional (i.e., no contingencies for availability of SAA funds) on the part of the awarding entity
- There must be documentary evidence of the commitment
- The award terms must be communicated to the official grantee

FEMA will track the congressionally-mandated obligation of funds to local units of government through each State’s Initial Strategy Implementation Plan. In addition, FEMA strongly encourages the timely obligation of funds from local units of government to other subgrantees, as appropriate.

The period of performance is 36 months. Any unobligated funds will be deobligated at the end of the 90 day close-out period. Extensions to the period of performance will be considered only through formal requests to FEMA with specific and compelling justifications why an extension is required.

---

<sup>2</sup> For purposes of the FY 2009 OPSG Supplemental, receipt of funds means the date on which funds are available for expenditure (e.g., all special conditions prohibiting obligation, expenditure and draw down have been removed).



## **B. Administrative and National Policy Requirements**

**1. State Preparedness Report.** The *Post-Katrina Emergency Management Reform Act of 2006* (Public Law 109-295) requires any State that receives Federal preparedness assistance to submit a State Preparedness Report to DHS. FEMA will provide additional guidance on the requirements for updating State Preparedness Reports. **Receipt of this report is a prerequisite for applicants to receive any FY 2009 DHS preparedness grant funding.**

**2. Standard Financial Requirements.** The grantee and any subgrantee shall comply with all applicable laws and regulations. A non-exclusive list of regulations commonly applicable to DHS grants are listed below:

### **2.1 -- Administrative Requirements.**

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)

### **2.2 -- Cost Principles.**

- 2 CFR Part 225, Cost Principles for State, Local, and Indian tribal Governments (OMB Circular A-87)
- 2 CFR Part 220, Cost Principles for Educational Institutions (OMB Circular A-21)
- 2 CFR Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
- Federal Acquisition Regulations (FAR), Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations

### **2.3 -- Audit Requirements.**

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

**2.4 -- Duplication of Benefits.** There may not be a duplication of any federal assistance, per A-87, Basic Guidelines Section C.3 (c), which states: Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.

**3. Non-supplanting Requirement.** Grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Applicants or grantees may be required to supply documentation

certifying that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.

#### **4. Technology Requirements.**

**4.1 -- National Information Exchange Model (NIEM).** FEMA requires all grantees to use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language (XML) for all grant awards. Further information about the required use of NIEM specifications and guidelines is available at <http://www.niem.gov>.

**4.2 -- Geospatial Guidance.** Geospatial technologies capture, store, analyze, transmit, and/or display location-based information (i.e., information that can be linked to a latitude and longitude). FEMA encourages grantees to align any geospatial activities with the guidance available on the FEMA website at <http://www.fema.gov/grants>.

**4.3 -- 28 CFR Part 23 guidance.** FEMA requires that any information technology system funded or supported by these funds comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if this regulation is determined to be applicable.

#### **5. Administrative Requirements.**

**5.1 -- Freedom of Information Act (FOIA).** FEMA recognizes that much of the information submitted in the course of applying for funding under this program or provided in the course of its grant management activities may be considered law enforcement sensitive or otherwise important to national security interests. While this information under Federal control is subject to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552, all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office, and may likely fall within one or more of the available exemptions under the Act. The applicant is encouraged to consult its own State and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application, needs assessment and strategic planning process. The applicant may also consult FEMA regarding concerns or questions about the release of information under State and local laws. The grantee should be familiar with the regulations governing Sensitive Security Information (49 CFR Part 1520), as it may provide additional protection to certain classes of homeland security information.

**5.2 -- Protected Critical Infrastructure Information (PCII).** The PCII Program, established pursuant to the *Critical Infrastructure Information Act of 2002* (Public Law 107-296) (CII Act), created a new framework, which enables State and local jurisdictions and members of the private sector to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act also provides statutory protection for voluntarily shared CII from public disclosure and civil

litigation. If validated as PCII, these documents can only be shared with authorized users who agree to safeguard the information.

PCII accreditation is a formal recognition that the covered government entity has the capacity and capability to receive and store PCII. DHS encourages all SAAs to pursue PCII accreditation to cover their State government and attending local government agencies. Accreditation activities include signing a memorandum of agreement (MOA) with DHS, appointing a PCII Officer, and implementing a self-inspection program. For additional information about PCII or the accreditation process, please contact the DHS PCII Program Office at [pcii-info@dhs.gov](mailto:pcii-info@dhs.gov).

**5.3 -- Compliance with Federal civil rights laws and regulations.** The grantee is required to comply with Federal civil rights laws and regulations. Specifically, the grantee is required to provide assurances as a condition for receipt of Federal funds that its programs and activities comply with the following:

- *Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq.* – no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity receiving Federal financial assistance.
- *Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794* – no qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity receiving Federal financial assistance.
- *Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq.* – discrimination on the basis of sex is eliminated in any education program or activity receiving Federal financial assistance.
- *The Age Discrimination Act of 1975, as amended, 20 U.S.C. 6101 et. seq.* – no person in the United States shall be, on the basis of age, excluded from participation in, denied the benefits of or subjected to discrimination under any program or activity receiving Federal financial assistance.

Grantees must comply with all regulations, guidelines, and standards adopted under the above statutes. The grantee is also required to submit information, as required, to the DHS Office for Civil Rights and Civil Liberties concerning its compliance with these laws and their implementing regulations.

**5.4 -- Services to limited English proficient (LEP) persons.** Recipients of FEMA financial assistance are required to comply with several Federal civil rights laws, including Title VI of the Civil Rights Act of 1964, as amended. These laws prohibit discrimination on the basis of race, color, religion, natural origin, and sex

in the delivery of services. National origin discrimination includes discrimination on the basis of limited English proficiency. To ensure compliance with Title VI, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. The grantee is encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. For additional information, see <http://www.lep.gov>.

### **5.5 -- Integrating individuals with disabilities into emergency planning.**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination against people with disabilities in all aspects of emergency mitigation, planning, response, and recovery by entities receiving financial assistance from FEMA. In addition, Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness* signed in July 2004, requires the Federal Government to support safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism. Executive Order 13347 requires the Federal government to encourage consideration of the needs of individuals with disabilities served by State, local, and tribal governments in emergency preparedness planning.

FEMA has several resources available to assist emergency managers in planning and response efforts related to people with disabilities and to ensure compliance with Federal civil rights laws:

- **Comprehensive Preparedness Guide 301 (CPG-301): Interim Emergency Management Planning Guide for Special Needs Populations:** CPG-301 is designed to aid tribal, State, territorial, and local governments in planning for individuals with special needs. CPG-301 outlines special needs considerations for: Developing Informed Plans; Assessments and Registries; Emergency Public Information/Communication; Sheltering and Mass Care; Evacuation; Transportation; Human Services/Medical Management; Congregate Settings; Recovery; and Training and Exercises. CPG-301 is available at <http://www.fema.gov/pdf/media/2008/301.pdf>.
- **Guidelines for Accommodating Individuals with Disabilities in Disaster:** The Guidelines synthesize the array of existing accessibility requirements into a user friendly tool for use by response and recovery personnel in the field. The Guidelines are available at <http://www.fema.gov/oe/reference/>.

- **Disability and Emergency Preparedness Resource Center:** A web-based “Resource Center” that includes dozens of technical assistance materials to assist emergency managers in planning and response efforts related to people with disabilities. The “Resource Center” is available at <http://www.disabilitypreparedness.gov>.
- **Lessons Learned Information Sharing (LLIS) resource page on Emergency Planning for Persons with Disabilities and Special Needs:** A true one-stop resource shop for planners at all levels of government, non-governmental organizations, and private sector entities, the resource page provides more than 250 documents, including lessons learned, plans, procedures, policies, and guidance, on how to include citizens with disabilities and other special needs in all phases of the emergency management cycle.

LLIS.gov is available to emergency response providers and homeland security officials from the Federal, State, and local levels. To access the resource page, log onto <https://www.llis.gov> and click on *Emergency Planning for Persons with Disabilities and Special Needs* under *Featured Topics*. If you meet the eligibility requirements for accessing Lessons Learned Information Sharing, you can request membership by registering online.

**5.6 -- Compliance with the National Energy Conservation Policy and Energy Policy Acts.** In accordance with the *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009* (Public Law 110-329), grant funds must comply with the following two requirements:

- None of the funds made available shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act (42 USC 8251 et. Seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).
- None of the funds made available shall be used in contravention of section 303 of the Energy Policy Act of 1992 (42 USC13212).

**5.7 -- Environmental and Historic Preservation Compliance.** FEMA is required to consider the potential impacts to the human and natural environment of projects proposed for FEMA funding. FEMA, through its Environmental and Historic Preservation (EHP) Program, engages in a review process to ensure that FEMA-funded activities comply with various Federal laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898). The goal of these compliance requirements

is to protect our nation's water, air, coastal, wildlife, agricultural, historical, and cultural resources, as well as to minimize potential adverse effects to children and low-income and minority populations.

The grantee shall provide any information requested by FEMA to ensure compliance with applicable Federal EHP requirements. Any project with the potential to impact EHP resources cannot be initiated until FEMA has completed its review. Grantees may be required to provide detailed information about the project, including the following: location (street address or map coordinates); description of the project including any associated ground disturbance work, extent of modification of existing structures, construction equipment to be used, staging areas, access roads, etc.; year the existing facility was built; natural, biological, and/or cultural resources present in the project vicinity; visual documentation such as site and facility photographs, project plans, maps, etc; and possible project alternatives.

For certain types of projects, FEMA must consult with other Federal and State agencies such as the U.S. Fish and Wildlife Service, State Historic Preservation Offices, and the U.S. Army Corps of Engineers, as well as other agencies and organizations responsible for protecting natural and cultural resources. For projects with the potential to have significant adverse effects on the environment and/or historic properties, FEMA's EHP review and consultation may result in a substantive agreement between the involved parties outlining how the grantee will avoid the effects, minimize the effects, or, if necessary, compensate for the effects.

Because of the potential for significant adverse effects to EHP resources or public controversy, some projects may require an additional assessment or report, such as an Environmental Assessment, Biological Assessment, archaeological survey, cultural resources report, wetlands delineation, or other document, as well as a public comment period. Grantees are responsible for the preparation of such documents, as well as for the implementation of any treatment or mitigation measures identified during the EHP review that are necessary to address potential adverse impacts. Grantees may use these funds toward the costs of preparing such documents and/or implementing treatment or mitigation measures. Failure of the grantee to meet Federal, State, and local EHP requirements, obtain applicable permits, and comply with any conditions that may be placed on the project as the result of FEMA's EHP review may jeopardize Federal funding.

Recipient shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and **modifications to buildings, structures and objects** that are 50 years old or greater. Recipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will

require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the recipient must ensure monitoring of ground disturbance, and if any potential archeological resources are discovered, the recipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. **Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not eligible for FEMA funding.**

For more information on FEMA's EHP requirements, SAAs should refer to FEMA's Information Bulletin #271, *Environmental Planning and Historic Preservation Requirements for Grants*, available at <http://oip.usdoj.gov/odp/docs/info271.pdf>. Additional information and resources can also be found at <http://www.fema.gov/plan/ehp/ehp-applicant-help.shtm>.

**5.8 -- Royalty-free License.** Applicants are advised that FEMA reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (b) any rights of copyright to which an award recipient or sub-recipient purchases ownership with Federal support. Award recipients must agree to consult with FEMA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

**5.9 – Department of Homeland Security/Federal Emergency Management Agency.** Applicants are advised that all publications created with funding under any grant award shall prominently contain the following statement: "This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA or the U.S. Department of Homeland Security."

**5.10 -- Equipment Marking.** Applicants are advised that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security."

**5.11 -- Disadvantaged Business Requirement.** Applicants are advised that, to the extent that recipients of a grant use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

**5.12 -- National Preparedness Reporting Compliance.** *The Government Performance and Results Act* (Public Law 103-62) (GPRA) requires that the Department collect and report performance information on all programs. For grant programs, the prioritized Investment Justifications and their associated milestones provide an important tool for assessing grant performance and complying with these national preparedness reporting requirements. FEMA will

work with grantees to develop tools and processes to support this requirement. FEMA anticipates using this information to inform future-year grant program funding decisions. Award recipients must agree 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 their grant agreement. This includes any assessments, audits, or investigations conducted by the Department of Homeland Security, Office of the Inspector General, or the Government Accountability Office.

## C. Reporting Requirements

Reporting requirements must be met throughout the life of the grant (refer to the program guidance and the special conditions found in the award package for a full explanation of these requirements. Please note that FEMA Payment and Reporting System (PARS) contains edits that will prevent access to funds if reporting requirements are not met on a timely basis.

- 1. Financial Status Report (FSR) -- required quarterly.** Obligations and expenditures must be reported on a quarterly basis through the FSR, which is due within 30 days of the end of each calendar quarter (e.g., for the quarter ending March 31, FSR is due no later than April 30). A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund draw downs may be withheld if these reports are delinquent. The final FSR is due 90 days after the end date of the performance period.

FSRs **must be filed online** through the PARS.

Reporting periods and due dates:

- October 1 – December 31; *Due January 30*
- January 1 – March 31; *Due April 30*
- April 1 – June 30; *Due July 30*
- July 1 – September 30; *Due October 30*

- 2. Categorical Assistance Progress Report (CAPR).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information on a semi-annual basis. The applicable SAAs are responsible for completing and submitting the CAPR reports. Awardees should include a statement in the narrative field of the CAPR that reads: *See BSIR.*

The CAPR is due within 30 days after the end of the reporting period (July 30 for the reporting period of January 1 through June 30; and January 30 for the reporting period of July 1 though December 31). Future awards and fund drawdowns may be withheld if these reports are delinquent.



CAPRs must be filed online at <https://grants.ojp.usdoj.gov>. Guidance and instructions can be found at <https://grants.ojp.usdoj.gov/gmsHelp/index.html>.

***Required submission: CAPR (due semi-annually).***

- 3. Initial Strategy Implementation Plan (ISIP).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information to meet the pass-through requirement. The applicable SAAs are responsible for completing and submitting the ISIP online.

***Required submission: ISIP (due within 45 days of the award date).***

- 4. Biannual Strategy Implementation Reports (BSIR).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information on a semi-annual basis. The applicable SAAs are responsible for completing and submitting the BSIR reports which is a component of the CAPR. The BSIR submission will satisfy the narrative requirement of the CAPR. SAAs are still required to submit the CAPR with a statement in the narrative field that reads: *See BSIR.*

The BSIR is due within 30 days after the end of the reporting period (July 30 for the reporting period of January 1 through June 30; and January 30 for the reporting period of July 1 through December 31). Updated obligations and expenditure information must be provided with the BSIR to show progress made toward meeting strategic goals and objectives. Future awards and fund drawdowns may be withheld if these reports are delinquent.

***Required submission: BSIR (due semi-annually).***

- 5. Financial and Compliance Audit Report.** Recipients that expend \$500,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the U.S. General Accountability Office, *Government Auditing Standards*, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, located at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. Audit reports are currently due to the Federal Audit Clearinghouse no later than nine months after the end of the recipient's fiscal year. In addition, the Secretary of Homeland Security and the Comptroller General of the United States shall have access to any books, documents, and records of recipients of FY 2009 OPSG Supplemental assistance for audit and examination purposes, provided that, in the opinion of the Secretary or the Comptroller, these documents are related to the receipt or use of such assistance. The grantee will also give the sponsoring agency or the Comptroller, through any authorized representative, access to, and the right to examine all records, books, papers or documents related to the grant.

The State shall require that sub-grantees comply with the audit requirements set forth in *OMB Circular A-133*. Recipients are responsible for ensuring that sub-recipient audit reports are received and for resolving any audit findings.

### ***Monitoring***

Grant recipients will be monitored periodically by FEMA staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Programmatic monitoring may also include the Regional Federal Preparedness Coordinators, when appropriate, to ensure consistency of project investments with Regional and National goals and policies, as well as to help synchronize similar investments ongoing at the Federal, State, and local levels.

Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

The recipient is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining of adequate financial records, and refunding expenditures disallowed by audits.

### ***Grant Close-Out Process***

Within 90 days after the end of the period of performance, grantees must submit a final FSR and final CAPR detailing all accomplishments throughout the project. After these reports have been reviewed and approved by FEMA, a close-out notice will be completed to close out the grant. The notice will indicate the project as closed, list any remaining funds that will be deobligated, and address the requirement of maintaining the grant records for three years from the date of the final FSR. The grantee is responsible for returning any funds that have been drawdown but remain as unliquidated on grantee financial records.

***Required submissions: (1) final SF-269a, due 90 days from end of grant period; and (2) final CAPR, due 90 days from the end of the grant period.***

## PART VII.

# FEMA CONTACTS

This section describes several resources that may help applicants in completing a FEMA grant application. During the application period FEMA will identify multiple opportunities for a cooperative dialogue between the Department and applicants. This commitment is intended to ensure a common understanding of the program objectives and administrative requirements associated with the FY 2009 OPSG Supplemental and to help in submission of projects that will have the highest impact on reducing risks.

- 1. Centralized Scheduling & Information Desk (CSID) Help Line.** CSID is a non-emergency resource for use by emergency responders across the nation. CSID is a comprehensive coordination, management, information, and scheduling tool developed by DHS through FEMA for homeland security terrorism preparedness activities. CSID provides general information on all FEMA grant programs and information on the characteristics of CBRNE, agro-terrorism, defensive equipment, mitigation techniques, and available Federal assets and resources.

CSID maintains a comprehensive database containing key personnel contact information for homeland security terrorism preparedness programs and events. These contacts include personnel at the Federal, State and local levels. CSID can be contacted at (800) 368-6498 or [askcsid@dhs.gov](mailto:askcsid@dhs.gov). CSID hours of operation are from 8:00 am–6:00 pm (EST), Monday-Friday.

- 2. Grant Programs Directorate (GPD).** FEMA GPD will provide fiscal support, including pre- and post-award administration and technical assistance, to the grant programs included in this solicitation. Additional guidance and information can be obtained by contacting the FEMA Call Center at (866) 927-5646 or via e-mail to [ASK-GMD@dhs.gov](mailto:ASK-GMD@dhs.gov).
- 3. GSA's State and Local Purchasing Programs.** The U.S. General Services Administration (GSA) offers two efficient and effective procurement programs for State and local governments to purchase products and services to fulfill homeland security and other technology needs. The GSA Schedules (also referred to as the Multiple Award Schedules and the Federal Supply Schedules) are long-term, indefinite delivery, indefinite quantity, government-wide contracts with commercial firms of all sizes.
  - Cooperative Purchasing Program  
Cooperative Purchasing, authorized by statute, allows State and local governments to purchase a variety of supplies (products) and services under

specific GSA Schedule contracts to save time, money, and meet their everyday needs and missions.



The Cooperative Purchasing program allows State and local governments to purchase alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services off of Schedule 84 and Information Technology products and professional services off of Schedule 70 and the Consolidated Schedule (containing IT Special Item Numbers) **only**. Cooperative Purchasing for these categories is authorized under Federal law by the *Local Preparedness Acquisition Act* (Public Law 110-248) and Section 211 of the *E-Government Act of 2002* (Public Law 107-347).

Under this program, State and local governments have access to GSA Schedule contractors who have voluntarily modified their contracts to participate in the Cooperative Purchasing program. The U.S. General Services Administration provides a definition of State and local governments as well as other vital information under the frequently asked questions section on its website at <http://www.gsa.gov/cooperativepurchasing>.

- **Disaster Recovery Purchasing Program**

GSA plays a critical role in providing disaster recovery products and services to Federal agencies. Now State and Local Governments can also benefit from the speed and savings of the GSA Federal Supply Schedules. Section 833 of the *John Warner National Defense Authorization Act for Fiscal Year 2007* (Public Law 109-364) amends 40 U.S.C. §502 to authorize GSA to provide State and Local governments the use of ALL GSA Federal Supply Schedules for purchase of products and services to be used to *facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or to facilitate **recovery** from terrorism or nuclear, biological, chemical, or radiological attack.*

GSA provides additional information on the Disaster Recovery Purchasing Program website at <http://www.gsa.gov/disasterrecovery>.

State and local governments can find a list of contractors on GSA's website, <http://www.gsa/library.gsa.gov>, denoted with a  or  symbol.

Assistance is available from GSA on the Cooperative Purchasing and Disaster Purchasing Program at the local and national levels. For assistance at the local level, visit <http://www.gsa.gov/csd> to find a local customer service director in your area. For assistance at the national level, contact Tricia Reed at [tricia.reed@gsa.gov](mailto:tricia.reed@gsa.gov), (571) 259-9921. More information is available on all GSA State and local programs at: [www.gsa.gov/stateandlocal](http://www.gsa.gov/stateandlocal).

- 4. Homeland Security Preparedness Technical Assistance Program.** The Homeland Security Preparedness Technical Assistance Program (HSPTAP) provides direct support assistance on a first-come, first-served basis (and subject to the availability of funding) to eligible organizations to enhance their capacity and preparedness to prevent, protect against, respond to, and recover from terrorist and all hazard threats. In addition to the risk assessment assistance already being provided, FEMA also offers a variety of other direct support assistance programs.

More information can be found at [http://www.fema.gov/about/divisions/pppa\\_ta.shtm](http://www.fema.gov/about/divisions/pppa_ta.shtm).

- 5. Lessons Learned Information Sharing (LLIS) System.** LLIS is a national, online, secure website that houses a collection of peer-validated lessons learned, best practices, AARs from exercises and actual incidents, and other relevant homeland security documents. LLIS facilitates improved preparedness nationwide by providing response professionals with access to a wealth of validated front-line expertise on effective planning, training, equipping, and operational practices for homeland security.

The LLIS website also includes a national directory of homeland security officials, as well as an updated list of homeland security exercises, events, and conferences. Additionally, LLIS includes online collaboration tools, including secure email and message boards, where users can exchange information. LLIS uses strong encryption and active site monitoring to protect all information housed on the system. The LLIS website is <https://www.llis.gov>.

- 6. Information Sharing Systems.** FEMA encourages all State, regional, local, and tribal entities using FY 2009 funding in support of information sharing and intelligence fusion and analysis centers to leverage available Federal information sharing systems, including Law Enforcement Online (LEO) and the Homeland Security Information Network (HSIN). For additional information on LEO, contact the LEO Program Office at [leoprogramoffice@leo.gov](mailto:leoprogramoffice@leo.gov) or (202) 324-8833. For additional information on HSIN and available technical assistance, contact the HSIN Help Desk at (703) 674-3003.