



FEMA

February 4, 2016

ACTION

MEMORANDUM FOR: Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)

THROUGH: Margaret H. Graves
Principal Deputy Chief Information Officer
Department of Homeland Security (DHS)

FROM: Richard W. Mattison
Records Management Program Chief
Federal Emergency Management Agency (FEMA)

SUBJECT: Emergency Information Collection (ICR): Controlled Equipment
Request Form

Purpose

The memorandum seeks Office of Management and Budget (OMB) approval of the Federal Emergency Management Agency's (FEMA) request for an emergency approval for the collection of new information under the *Paperwork Reduction Act*. Emergency approval is necessary for FEMA to implement Executive Order 13688 for the FY2016 Homeland Security Grant Programs within the statutory deadlines for issuing guidance and awards mandated by the DHS Appropriations Act, 2016.

Background

This form was developed to collect required information as part of the implementation of [*Executive Order \(EO\) 13688: Federal Support for Local Law Enforcement Equipment Acquisition*](#), issued January 16, 2015, which ordered the establishment of a *Prohibited Equipment List* and a *Controlled Equipment List* and identified additional actions that can improve Federal support for the appropriate use, acquisition, and transfer of controlled equipment by state, local, tribal, territorial, and private grant recipients. Implementation of EO 13688 will require FEMA to collect information on the grant recipient, their policies, training, record keeping, etc. The Grant Programs Directorate's approach to implementing these recommendations balances the agency's need for the information while minimizing the burden placed on grant recipients. The proposed form includes only fields required to comply with the recommendations. The form was intentionally designed with fillable fields to reduce the amount of time and effort required for grant recipients.

Discussion

On January 16, 2015, the President signed Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisitions. As part of the implementation of the Order, the Law Enforcement Equipment Working group was established as a permanent interagency working group tasked with providing the President with recommendations on how the federal government can better support law enforcement and ensure that careful attention is paid to standardizing procedures governing its provision of controlled equipment and funds for controlled equipment to law enforcement agencies (LEAs). Moreover, key information must be obtained from recipients to ensure that LEAs have proper training regarding the appropriate use of controlled equipment, including training on the protection of civil rights and civil liberties, and are aware of their obligations under Federal nondiscrimination laws when accepting such equipment. FEMA will use the collected information to achieve these objectives.

In May of 2015, the permanent working group released their [*Recommendations Pursuant to Executive Order 13688*](#). While EO 13688 speaks directly to Law Enforcement Agencies (LEA), FEMA will apply the same requirements and conditions to all controlled equipment regardless of the recipient's designation as, or affiliation with, law enforcement to ensure a consistent approach toward controlled equipment expenditures and use by all FEMA recipients. Following the group's work, Information Bulletin 407 and the Controlled Equipment Request Form were developed based on the information that grant recipients requesting controlled equipment are required to provide.

Recommendations pursuant to EO 13688 are being implemented for the FY 2016 cycle of FEMA's Homeland Security Grant Programs which award funding under the Agency's appropriation for State and Local Programs. As directed by Division F of HR2029 on page 656 of the 2016 DHS Appropriations Act deadlines for issuing program guidance, application due dates and awards are mandated by Congress as follows:

Provided, ..., applications for grants shall be made available to eligible applicants not later than 60 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 80 days after the grant announcement, and the Administrator of the Federal Emergency Management Agency shall act within 65 days after the receipt of an application:

Without emergency approval, FEMA will be unable to collect the required information under EO 13688 and the Recommendations Pursuant to Executive Order 13688 within the award deadlines mandated by the Appropriations Act. The use of normal PRA clearance procedures is reasonably likely to cause the deadline of implementation for all grants made after October 1, 2015 to be missed. It is anticipated that the Notices of Funding Opportunity will be made available to the public on or around February 16th, and form would need to be approved for use prior to that date so that Information Bulletin 407 can be released in a timely manner.

The following information is required:

General Information and Contact Information

Sub Recipient General Information and Contact Information

Policies

Does the requesting Agency have policies on Community Policing? (LEAs only)

Does the requesting Agency have policies on Constitutional policing? (LEAs only)

Does the requesting Agency have policies on Community Input? (LEAs only)

Does the requesting Agency have policies on Impact Considerations? (LEAs only)

Does the requesting organization have policies in place on the appropriate use of the requested equipment?

Does the requesting organization have policies in place on the supervision of use of the requested equipment?

Does the requesting organization have policies in place on the effectiveness evaluation for the use of the requested equipment?

Does the requesting organization have policies in place for auditing and accountability of the requested equipment?

Does the requesting organization have policies in place on transparency and Notice Consideration for the use of the requested equipment?

Does the requesting organization have recordkeeping policies on the training on the use of the controlled equipment?

Does the requesting organization have recordkeeping policies on significant incidents?

Controlled Equipment

What is the Category of Controlled Equipment?

What is the Authorized Equipment List Number (if known)?

Provide a detailed description of the equipment and the justification for acquiring the requested controlled equipment.

How many units of the controlled equipment are requested?

How many units of the controlled equipment are currently in inventory?

List all categories of controlled equipment acquired by the organization through federal programs in the last three years that are currently in inventory.

Can the requested controlled equipment be reasonably accessed by other means?

Has the requesting organization provided training to users of the controlled equipment?

Organization Information

Does the requesting organization have written approval from their governing body (for purposes of these criteria, a "governing body" is defined as the institution or organization that has direct budgetary oversight or fiscal/financial control over the requesting entity) for the proposed acquisition of the requested controlled equipment?

Has the requesting organization previously requested, have a pending request for, or been denied for this category of controlled equipment by another federal agency?

If previously denied, provide an explanation of why the request was denied, including which Agency made the denial.

Has the requesting organization ever been in violation of a federal civil rights statute or program during the past 3 years? If yes, provide any disposition that was reached or corrective action.

Will the requested controlled equipment provide a regional or multi-jurisdictional capability?

If yes, provide the following information regarding the controlled equipment

Regional geographic size to be served

Regional population to be served

Number of individuals with access to the controlled equipment

Regional Sharing Agreement

Do all entities in a regional sharing agreement have or will adopt all required protocols, provide all required training, and adhere to the information collection and retention requirements prior to acquisition of the controlled equipment?

Certification Statement

By signing the form, the authorized official certifies that the requesting organization:

- Has adopted the required Policies and Protocols Requirements;
- Meets the Training Requirements;
- Will adhere to the Records Keeping Requirements;
- Will adhere to After-Action Report Requirements;
- If applicable, all entities in a regional sharing agreement have or will adopt all required protocols, meet all required training requirements, and adhere to the records keeping and the after action reporting requirements.
- Will abide by all applicable federal, state, local and tribal laws, regulations, and programmatic terms and conditions and all requirements outlined in the Grant Programs Directorate Information Bulletin 407: Use of Grant Funds for Controlled Equipment.

Conclusion

FEMA respectfully requests that OMB grant FEMA's request for emergency clearance for the Act within the statutory time frame. It is imperative that FEMA receives this information in order to meet the letter and intent of the EO.

