

# CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (Cal OES)

## Hazardous Materials Emergency Preparedness (HMEP) Planning Subgrant Program CFDA #20.703

### GENERAL TERMS AND CONDITIONS

2015-16 Grant Cycle

This award by the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) is made pursuant to Funding Opportunity Title: "2015 PHMSA HMEP GRANT" Funding Opportunity Number HM-HMP-15-002 and HM-HMP-15-003.

#### **1. Effect of Award**

The Subrecipient, which is the organization named in Block 1 of the Cal OES Grant Subaward Face Sheet (Cal OES 2-101, GSAF), is legally responsible for and accountable to Cal OES for the funds provided. By accepting this subaward, which is accomplished by the signature of the Authorized Agent designated in Block 14 of the GSAF, the Subrecipient and the Implementing Agency, which is the organization named in Block 2 of the GSAF, if different from Block 1, agree to comply with the Terms and Conditions detailed or referenced below.

Hereafter, when the term Subrecipient is used, it includes the Implementing Agency by association.

If the Subrecipient materially fails to comply with the Terms and Conditions of this award, whether stated in the full text herein or incorporated by reference, Cal OES may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances as provided in 2 CFR §200.

#### **2. Award Information**

The total amount of HMEP funding is shown in Block 8.B. of the GSAF. This represents the reimbursable portion the project. Cal OES will document the required match share for HMEP Planning Subawards; this is no longer a requirement of the Subrecipient.

The Subrecipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by this subaward.

#### **3. Incorporation of Approved Application by Reference**

The Subrecipient's application, including the Project Narrative and Budget Sheet as approved by Cal OES, is incorporated by reference in this subaward. Changes to the approved application are governed by 2 CFR §200.308 and any applicable requirements outlined in these Terms and Conditions, as well as any Special Conditions that may be provided with the approved GSAF. See Section 22 of this document for more information on the types of actions that require prior approval.

#### **4. Governing Statutes and Regulations**

The administration of this subaward is based on the following Federal statutory and regulatory requirements:

- The authorizing language of 49 U.S.C. 5151, et seq.
- Program regulations located in 49 CFR §110.
- The administrative regulations, cost principles, and audit requirements contained in 2 CFR §200.
- Any other applicable Federal statutes and regulations, including, but not limited to the following:
  - The Subrecipient must comply with 49 CFR §20, New Restrictions on Lobbying. 49 CFR 20 is incorporated by reference in this award, and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/).
  - The Subrecipient must comply with Title VI of the Civil Rights 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 Subrecipient 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, and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/).
  - The Subrecipient must comply with 49 CFR §32, Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which implements the requirements of Public Law 100-690, Subtitle D, “Drug-Free Workplace Act of 1988.” 49 CFR §32 is incorporated by reference in this award, and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/).

No Term or Condition of this award is intended to require the Subrecipient to violate any applicable State, Local, Tribal or Territorial law.

The Subrecipient must immediately notify Cal OES 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 Subrecipient’s ability to perform the approved grant activities in accordance with the Terms and Conditions of this award. The Subrecipient must also immediately notify Cal OES of any decision pertaining to the Subrecipient’s conduct of litigation that may affect US DOT, PHMSA or Cal OES interests.

#### **5. Order of Precedence**

Any inconsistency or conflict in the Terms and Conditions specified in this subaward 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 the performance of this award.
- Any Special Conditions of this award.
- These General Terms and Conditions.

## **6. General Cal OES Responsibilities**

### *Cal OES Director (or designee)*

The individual who signed this award on behalf of Cal OES, as shown below Block 15. of the GSAF, and is the only Cal OES official authorized to obligate the State to the expenditure of Federal funds under this subaward and approve amendments to the subaward agreement.

The Cal OES Director is:

Mark S. Ghilarducci  
California Governor's Office of Emergency Services  
3650 Schriever Avenue  
Mather, CA 95655  
Telephone: (916) 845-8506  
Fax: (916) 845-8511  
E-mail: Mark.Ghilarducci@caloes.ca.gov

General inquiries about the HMEP grant or subgrants should be directed to the Cal OES HazMat Section Chief or HMEP Grant Administrator.

### *Cal OES Hazardous Materials Section Chief*

The individual who is the final administrative approving official for HMEP Planning Subgrant application packages, once reviewed and approved by the LEPC Region Chair, Cal OES LEPC Support Staff, and Cal OES HMEP Grant Administrator. The HazMat Section Chief is authorized to approve modifications to the scope of work, project objectives, or budget changes that do not change the grant award amount.

The Cal OES HazMat Section Chief is:

Thomas Campbell  
Deputy Chief, Hazardous Materials Section  
California Governor's Office of Emergency Services  
3650 Schriever Avenue  
Mather, CA 95655  
Telephone: (916) 845-8751  
Fax: (916) 845-8734  
E-mail: Thomas.E.Campbell@caloes.ca.gov

Cal OES HMEP Grant Administrator

The individual who is responsible for the administrative and programmatic management of this subaward. The HMEP Grant Administrator is the point of contact for Subrecipients for submission of applications, required reports, requests for technical assistance with any aspect this award, and day-to-day communications regarding HMEP Grant or Subgrant activities.

The Cal OES HMEP Grant Administrator is:

Neverley Shoemake  
Emergency Services Coordinator, Hazardous Materials Section  
California Governor's Office of Emergency Services  
3650 Schriever Avenue  
Mather, CA 95655  
Telephone: (916) 845-8765  
Fax: (916) 845-8734  
E-mail: Neverley.Shoemake@caloes.ca.gov

**7. General Subrecipient Responsibilities**

In accepting a Cal OES financial assistance subaward, the Subrecipient assumes legal, financial, administrative, and programmatic responsibility for administering the subaward in accordance with the laws, rules, and regulations governing grants and cooperative agreements, these Terms and Conditions, any Special Conditions included in this subaward agreement, the Cal OES HMEP Grant Assurances, and the Cal OES Planning Grant Guide for Subrecipients.

The Subrecipient is responsible for monitoring the subaward and contractual activities under this subaward to ensure compliance with Federal and State requirements, and that performance objectives are being achieved.

The Subrecipient is required to advise Subrecipients of requirements imposed on them by Federal laws, regulations, and the Terms and Conditions of this subaward. These include grant administrative requirements, cost principles, and audit requirements contained in 2 CFR §200

Failure to comply with these requirements may result in suspension or termination of the subaward and Cal OES recovery of funds.

Subrecipient Project Manager

The Subrecipient Project Manager is the individual identified on the Cal OES HMEP Grant Application Form and Designation Statement as the Project Manager, and is responsible for the technical direction of the project activities. The Project Manager is considered a key person under this subaward and, pursuant to 2 CFR §200.308(c), cannot be replaced or disengaged from the project for more than three months without prior approval of Cal OES.

Under the Terms of this award, the Subrecipient, through the Project Manager, is responsible for:

- accomplishing the objectives and tasks specified in the approved application within the approved budget amounts and timeframes;
- providing required reports and reimbursement requests that are complete, accurate, and timely; and
- providing supporting documentation at the conclusion of the approved grant activities that demonstrates the approved project activities were completed.

#### Subrecipient Authorized Agent

The Subrecipient Authorized Agent is the individual who has authority to legally and financially bind the organization, and so certifies on the Cal OES HMEP Planning Subgrant Designation Statement. This is the individual listed in Block 14 of the GSAF. It is the Subrecipient's responsibility to follow their agency's policies and procedures for ensuring the Authorized Agent is duly authorized, informed of the project's progress, and endorses any requests requiring prior Cal OES approval.

Cal OES HMEP Subgrant forms, reports, and requests will be signed by the Subrecipient Authorized Agent identified on the Designation Statement.

If the Authorized Agent changes during the performance period, a Designation Statement and Assurances must be signed by the new Authorized Agent. Documentation submitted with an Authorized Agent signature that is not on record will not be processed.

### **8. Required Registration in the System for Award Management (SAM)**

Per 2 CFR §25 Appendix A, the System for Award Management (SAM) is the official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS. SAM is part of an overall integrated acquisition environment that brings together different Federal procurement data systems in to a unified system, with the intention of reducing duplication and information technology costs, and to help create a more streamlined and integrated Federal acquisition process. Additional information about registration procedures may be found at <https://www.sam.gov/>.

Unless exempted from this requirement under 2 CFR §25.110, the Subrecipient must maintain the information in the SAM until the final financial report required under this subaward is submitted or the Subrecipient receives the final payment, whichever is later. This requires the Subrecipient to review and update the information at least annually after the initial registration, and more frequently if required by changes or another subaward term.

If the Subrecipient is authorized to make further subawards under this subaward, it must:

- Notify potential subrecipients that no entity may receive a subaward from you unless the entity has provided its unique entity identifier to you.
- Not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

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

In accordance with 2 CFR §200.212 the Subrecipient and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 CFR §180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

The Subrecipient must also comply with 2 CFR §1200, “Non-procurement 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.

Before entering into a further subaward or contract under the subgrant, the Subrecipient must verify that the entity/individual is not excluded or disqualified from participation in Federal non-procurement or procurement programs. This can be done by:

- Performing a search (previously performed in the EPLS by checking for Active Exclusions on the SAM website located at <https://www.sam.gov/>;
- Collecting a certification from that entity/individual; or
- Adding a clause or condition to the covered transaction with that entity/individual.

The Subrecipient must include a Term or Condition in lower-tier transaction requiring lower-tier participants to comply with subpart C of the OMB guidelines in 2 CFR §180, as supplemented by 2 CFR §1200.

The Subrecipient must inform Cal OES when they suspend or debar a contractor or Subrecipient.

## **10. Financial Management and Internal Controls**

The Subrecipient’s financial management system, including records documenting compliance with Federal statutes, regulations, and the Terms and Conditions of the subaward, must be sufficient to permit the preparation of reports required by general and program-specific Terms and Conditions, and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the Terms and Conditions of the subaward.

In accordance with 2 CFR §200.302 - .303, the Subrecipient’s financial management system must provide for the following:

- Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

- Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 Financial reporting and 200.328 Monitoring and reporting program performance. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
- Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
- Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See §200.303 Internal controls.
- Comparison of expenditures with budget amounts for each Federal award.
- Written procedures to implement the requirements of §200.305 Payment.
- Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

## **11. Payment**

Unless otherwise authorized, the HMEP Subgrant Program is under the reimbursement method. Subrecipients must comply with all provisions located in 2 CFR §200.305 reflecting payment of grant funds from a Federal agency via a pass-through entity. The Subrecipient must maintain financial management systems that meet the standards for fund control and accountability as established in 2 CFR §200.302.

Payments for allowable costs may be withheld during the period of performance if:

- The Subrecipient has failed to comply with the project objectives, Federal statutes, regulations, or the Terms and Conditions of the Subaward.
- The Subrecipient is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Ta Receivables.”

While separate depository accounts for grant funds are not required, the Subrecipient must be able to account for the receipt, obligation and expenditure of funds.

- The Subrecipient is delinquent in submitting required reports or responding to findings and corrective actions developed during the course of monitoring activities.

Each payment request must be made electronically by email, unless a document requiring an original signature (i.e., new Designation Statement or Amendment Form) is included. Only requests using the most current Cal OES Reimbursement Request form will be accepted. Reimbursement requests may be submitted monthly, but not less than quarterly and must include a report of progress on the project, such as with a Quarterly Performance Report.

All approved project activities must be completed and paid for by the last day of the Subrecipient performance period. Allowable costs that were not claimed in the quarter in which they occurred can be included in a later Reimbursement Request, but must be identified as previously unclaimed.

Supporting documentation is to be kept on file according to the Subrecipient's internal controls that comprise the grant management and financial management policies and procedures. These documents will be reviewed during the course of monitoring, including site visits and desk reviews. Cal OES reserves the right to request supporting documentation upon receipt of payment requests. Subrecipients must comply with these requests in a timely manner to avoid delays in payment processing.

Send scanned copies of requests and any needed supporting documentation to Cal OES at: [neverley.shoemake@caloes.ca.gov](mailto:neverley.shoemake@caloes.ca.gov).

## **12. Allowable Costs**

The allowability of costs incurred by the Subrecipient will be determined using the OMB cost principles located in 2 CFR §200 – Subpart E.

## **13. Pre-Subaward Costs**

In accordance with 2 CFR §200.308, Subrecipients may incur project costs within 90 calendar days before the subaward. Expenses more than 90 calendar days pre-subaward require prior approval of the Federal awarding agency. All costs incurred before Cal OES makes the subaward are at the Subrecipient's risk (i.e., Cal OES is under no obligation to reimburse such costs if for any reason the Subrecipient does not receive a subaward or if the subaward is less than anticipated and inadequate to cover such costs).

## **14. Flow-Down of Requirements under Subawards**

The requirements of this subaward that apply to the Subrecipient also apply to their Subrecipients, i.e., entities that are carrying out part of the substantive programmatic activity, unless an exception is specified.

In making subawards under the subaward, the Subrecipient must apply the Federal administrative requirements, cost principles and audit requirements contained in 2 CFR §200.

## **15. Matching Requirement**

Per 49 U.S.C. §5116(e), the Recipient (Cal OES) must provide 20 percent of the allowable direct and indirect costs of activities covered under the Federal award. Cal OES will document the required match share for HMEP Planning Subawards; this is no longer a Subrecipient requirement. The Subrecipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by this subaward.

## **16. Financial Reporting Requirements**

Subrecipients are required to submit a Reimbursement Request at least quarterly that indicates the status of project expenditures. Subrecipients who are not substantially on track with the approved timelines or budget by the end of the second quarter of the performance period (March 31<sup>st</sup>) risk having the subaward suspended, reduced or terminated.

See Section 11. Payment of these Terms and Conditions for submission details.

## **17. Performance Reporting Requirements**

### Quarterly Performance Report

Subrecipients are required to submit a Quarterly Performance Report at least quarterly that indicates the status of project activities. Subrecipients who are not substantially on track with the approved timelines or budget by the end of the second quarter of the performance period (March 31<sup>st</sup>) risk having the subaward suspended, reduced or terminated.

If there are minor changes to the activities schedule, detail the circumstances in the Quarterly Performance Report and include an updated Work Schedule and Deliverables Form. If there is a significant delay in the approved Work Schedule a more formal modification or amendment may be required. See Section 22 of these Terms and Conditions for more information on subaward changes.

Subrecipients must submit Quarterly Performance Reports to Cal OES until all grant activities are completed or for the duration of the grant performance period. The reports must include the status of all approved activities, and should align with the Work Schedule and Deliverables contained in the Grant Application package. The reports are due as follows:

- Start of Subrecipient Performance Period through December 31 – Report due January 7.
- January 1 through March 31 – Report due April 7.
- April 1 through June 30 – Report due July 7.

Send scanned copies of reports to Cal OES at: [neverley.shoemake@caloes.ca.gov](mailto:neverley.shoemake@caloes.ca.gov). Supporting documentation is to be kept on file according to the Subrecipient's internal controls that comprise the grant management and financial management policies and procedures. These documents will be reviewed during the course of monitoring, including site visits and desk reviews. Cal OES reserves the right to request supporting

documentation upon receipt of performance reports. Subrecipients must comply with these requests in a timely manner to avoid delays in the associated reimbursement payment processing.

### Final Report

The Subrecipient must notify Cal OES, in writing, when all approved grant activities have been completed and paid for, in the form of a Quarterly Performance Report. Documentation showing completion of approved project activities must be submitted with the Final Report in electronic format whenever possible – do not submit printed plans or other developed product.

All approved project activities must be completed and paid for by the last day of the Subrecipient performance period, indicated in Block 6 of the GSAF or on a subsequently approved Amendment Form.

### Requests for extension and effect of late reporting

A request for an extension of the due date for a Quarterly Performance Report must be made in writing by the Subrecipient's Authorized Agent to Cal OES 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.

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

## **18. Subaward vs. Contract Determination Requirements**

Subrecipients of HMEP funds must adhere to the requirements outlined in 2 CFR §200.330 in order to make the proper determination between a subrecipient and a contractor.

Subrecipients must also adhere to the subaward management requirements outlined in 2 CFR §200.331 if they are acting as a pass-through entity to subaward funds to a lower tier subrecipient.

## **19. Subaward Management Requirements**

Subrecipients of HMEP funds must also adhere to the subaward management requirements outlined in 2 CFR §200.331 if they are acting as a pass-through entity, following a subaward determination according to the requirements in 2 CFR §200.330.

## **20. Reporting Executive Compensation**

### Applicability and what to report

Subrecipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if:

- The total federal funding authorized to date under this subaward is \$25,000 or more;
- In the preceding fiscal year, you received-
  - 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***
  - \$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***
- 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>.)

Total compensation means the cash and noncash dollar value earned by the executive during the Subrecipient's preceding fiscal year. Refer to 17 CFR §229.402(c)(2) for more information on what is included in total compensation.

Where and when to report

If determined to be applicable as described above, the Subrecipient must report executive total compensation:

- as part of the Subrecipient agency registration profile in the SAM at <https://www.sam.gov/portal/public/SAM/>,
  - by the end of the month following the month in which this subaward is made, and annually thereafter; ***and***
- to Cal OES at [neverley.shoemake@caloes.ca.gov](mailto:neverley.shoemake@caloes.ca.gov),
  - by the end of the month in which this subaward is made.

**21. Procurement**

Subrecipients are to follow the procurement requirements outlined in 2 CFR §200.318 through §200.326 for all procurement transactions

**2 CFR §200.318** describes the general procurement standards and states that the Subrecipient must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in 2 CFR §200.318. Items described include:

- Contractor oversight
- Written conflict of interest standards and standards governing the selection, award, and administration of contracts

- Economy and efficiency
- Contractor considerations
- Procurement recordkeeping
- Time and materials contracts

**2 CFR §200.319** covers competition. Items described include:

- Full and open competition
- Geographical preferences
- Written procurement procedures
- Prequalified goods and services provider lists

**2 CFR §200.320** details the methods of procurement to be followed and describes the differences between:

- micro-purchases
- small purchase procedures
- sealed bid (formal advertising)
- competitive proposals
- non-competitive proposals.

**2 CFR §200.321** outlines the steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

US DOT's policy is to award a fair share of contracts to small minority business, women-owned and HUBZone firms. US 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 US DOT grants or cooperative agreements.

The Recipient and any sub-recipients 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 Subrecipient 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 HUBZone 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 US DOT Office of Small and Disadvantaged Business Utilization, as appropriate.

**2 CFR §200.322** describes establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines at 40 CFR part 247

**2 CFR §200.323** identifies contract cost and price requirements, including analysis, profit negotiation, cost estimates, and cost plus a percentage of cost.

**2 CFR §200.324** explains the Subrecipient's responsibilities when the Federal agency (US DOT/PHMSA) or the pass-through entity (Cal OES) request to review aspects of a proposed procurement.

**2 CFR §200.325** contains information on bonding requirements.

**2 CFR §200.326** states that Subrecipient's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

In addition to any other required provisions, all contracts made by the Subrecipient under this subaward must contain provisions (A) through (J), as applicable. Those provisions, as applicable, are incorporated by reference in this award, and are available at [http://www.ecfr.gov/cgi-bin/text-idx?SID=8997eadebed4fe5647fc4510ca3d793f&node=pt2.1.200&rgn=div5#ap2.1.200\\_1521.ii](http://www.ecfr.gov/cgi-bin/text-idx?SID=8997eadebed4fe5647fc4510ca3d793f&node=pt2.1.200&rgn=div5#ap2.1.200_1521.ii). They are also contained in the Cal OES Grant Assurances for the HMEP Grant Program.

## **22. Changes to the Approved Application**

As noted in Section 3 of these Terms and Conditions, the Project Narrative and Budget Sheet submitted as part of the application package, upon the acceptance of this subaward, become the approved scope of work and budget. Subrecipients are required to reports deviations from budget or project scope or objective and request prior approvals from Cal OES for the following reasons:

- Change in the scope or objective of the project or program, even if there is no associated budget revision requiring prior approval. If a Subrecipient has a question about whether a change represents a change in scope, the Subrecipient's Project Manager should contact the Cal OES HMEP Grant Administrator.
- Request for approval to engage in activities that were not detailed in the Project Narrative or Budget Narrative.
- Change in the Subrecipient Project Manager

- The disengagement from the project for more than three months by the Project Manager or Authorized Agent
- Unless described in the approved application, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount subawards as described in 2 CFR §200.332. This provision does not apply to the acquisition of supplies, material, equipment or general support services.
- A request for an extension of the performance period by up to 30 days. Subrecipients must include in their request the supporting reasons for the extension, the amount of unobligated funds and a revised Work Schedule and Deliverables form. The request must be signed or endorsed by the Authorized Agent and submitted at least 30 calendar days before the current end of the performance period indicated in Block 6 of the GSAF or subsequent Amendment.
- Any transfers among budget categories, whenever the Subaward amount is less than \$150,000. Requests must be accompanied by a revised Budget Form and Budget Narrative.
- Transfers among budget categories, which exceed or are expected to exceed ten percent of the current total approved budget, whenever the Subaward amount exceeds \$150,000. Requests must be accompanied by a revised Budget Form and Budget Narrative.
- Change in the amount of the subaward. Subrecipients must include in their request the supporting reasons for the return of funds or the need for supplemental funding, the amount of funds needed or being returned, a revised Budget Form and Budget Narrative, and a revised Work Schedule and Deliverables form, as appropriate. The request must be signed or endorsed by the Authorized Agent and submitted at least 90 calendar days before the current end of the performance period indicated in Block 6 of the GSAF or subsequent Amendment.

The award may be amended by the Cal OES Director (or designee), either at Cal OES' initiation, with the Subrecipient's acceptance, as appropriate, or upon the request of the Subrecipient Authorized Agent. Amendments include changes to the performance period, increases/decreases to the subaward amount or changes to the Subrecipient name. Amendments must use the current Grant Award Amendment form (Cal OES 2-213) and must be signed by the Authorized Agent. Requests for Amendments must be received no later than 15 days prior to the requested effective date of the proposed change, except as noted above and unless the Amendment is initiated by Cal OES. If the proposed change affects the approved budget, the Subrecipient must submit a revised Budget Sheet and Budget Narrative. If the proposed change affects the approved work schedule, the Subrecipient must submit a revised Work Schedule and Deliverables Form.

The award may be modified by the Cal OES Hazardous Materials Section Chief, either at Cal OES' initiation, with the Subrecipient's acceptance, as appropriate, or upon the request of the Subrecipient Authorized Agent. Modifications include changes to the scope of work, project objectives, or budget changes that do not change the subaward amount. Modifications must be requested and approved/denied in writing, and must be communicated by or include the concurrence of the Subrecipient Authorized Agent when the request is initiated by the Subrecipient. Requests for Modifications must be received no later than 15 days prior to the requested effective date of the proposed change, unless initiated by Cal OES. If the proposed change affects the approved budget, the Subrecipient must submit a revised Budget Sheet and Budget

Narrative. If the proposed change affects the approved work schedule, the Subrecipient must submit a revised Work Schedule and Deliverables Form.

Submit all prior approval requests and inquiries about potential changes to the approved application to the Cal OES HMEP Grant Administrator at [neverley.shoemake@caloes.ca.gov](mailto:neverley.shoemake@caloes.ca.gov). Cal OES is under no obligation to consider requests for changes to the approved application within the 30 days before the end of the current performance period.

### **23. Special Conditions**

As a result of the application review and risk assessment, Cal OES may include special conditions that may supersede these General Terms and Conditions, in accordance with 2 CFR §200.207. Any special conditions applied to a Subrecipient will be detailed on a supplemental document that will be provided to the Subrecipient with the approved copy of the GSAF and Notification of Application Approval letter. If applied during the course of the performance period, any special conditions will be accompanied by a letter signed by the Cal OES HazMat Section Chief.

### **24. Title to Equipment**

Title to equipment purchased or fabricated under this award vests in the Subrecipient, unless otherwise specified under 2 CFR §200.313 or any special conditions of the subaward.

### **25. Copyrights**

US DOT/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 Subrecipient or a contractor purchases ownership with grant support.

### **26. Audit Requirements**

As required by 2 CFR §200.501, Subrecipients that expend \$750,000 or more in Federal awards during the Subrecipient entity's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of the regulation. Subrecipients are expected to review and fully comply with the audit requirements formerly located at OMB Circular A-133 and now located at 2 CFR §200 – Subpart F.

## **27. Record Retention and Access to Records**

Subrecipients must comply with the records retention requirements in 2 CFR §200.333 and the provisions in 2 CFR §200.336 for access to records.

### *Site visits, desk audits, or other reviews*

Cal OES, through its staff or authorized representatives, may make site visits 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 Subrecipient, the Subrecipient must provide reasonable facilities and assistance to Cal OES representatives in the performance of their duties. Site visits and evaluations will be coordinated with the Subrecipient so to not unduly delay work activity under the subaward or other activities of the Subrecipient.

Cal OES, through its authorized representatives, may request a desk audit or other monitoring review to assess project accomplishments, management control systems and provide guidance as may be requested or required. If a desk audit or other monitoring review is conducted, the Subrecipient is required to provide all records requested by Cal OES. Desk audits and monitoring reviews will be coordinated with the Subrecipient so to not unduly delay work activity under the subaward or other activities of the Subrecipient.

If Cal OES 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, Cal OES will coordinate the request with the Subrecipient.

## **28. Seat Belt Use Policies and Programs**

In accordance with Executive Order 13043, the Subrecipient 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 1-888-221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

## **29. Texting While Driving**

In accordance with Executive Order, 13513, Recipients, Subrecipients, and their Subrecipients or 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.

### **30. Information Collection**

Under the Paperwork Reduction Act (PRA), if a Subrecipient collects the same information from 10 or more respondents as part of carrying out this award, the Subrecipient is prohibited from representing to its respondents that information is being collected for, or in association with, the federal government unless the Subrecipient 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 subaward requires Subrecipients to collect information on PHMSA's behalf or to obtain Cal OES approval of any information collection a Subrecipient might deem necessary under this award.

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

The US 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 reporters may decline to give their names if they choose to remain anonymous.

US DOT Inspector General  
1200 New Jersey Avenue, SE West Bldg. 7<sup>th</sup> Floor  
Washington, DC 20590  
Toll-free: (800) 424-9071  
E-mail: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)  
Internet: <http://www.oig.dot.gov/Hotline>.