

2009 BUFFER ZONE PROTECTION PROGRAM

Additional Federal and State Requirements

The requirements in this document provide a summary of some of the key federal and state requirements which apply to these grant funds.

1. **Federal Guidance Document:** The Sub-grantee must comply with all applicable requirements in the U.S. Department of Homeland Security guidance document titled “Fiscal Year 2009 Buffer Zone Protection Program; Guidance and Application Kit, November 2008.” A copy of this guidance document is available from the following U.S. Department of Homeland Security website: <http://www.fema.gov/government/grant/bzpp/index09.shtm>.
2. **Federal Regulations:** The Sub-grantee shall comply with the most recent version of the following Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to U.S. DHS grants are listed below:
 - A. Administrative Requirements:
 - 44 CFR Part 13, “Uniform Administrative Requirements for Grants and Cooperative Agreement to State and Local Governments”.
 - 2 CFR Part 215, “Uniform Administrative Requirements for Grants and Cooperative Agreement with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations”.
 - B. Cost Principles:
 - 2 CFR Part 225, State and Local Governments. (OMB Circular A-87)
 - 2 CFR Part 220, Educational Institutions. (OMB Circular A-21)
 - 2 CFR Part 230, Non-profit Organizations. (OMB Circular A-122)
 - Federal Acquisition Regulations (FAR) Subpart 31.2 (48 CFR 31.2), Contracts with Commercial Organizations.
 - C. Audit Requirements:
 - OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations.
3. **Federal Assurances and Special Conditions:** The Sub-grantee shall comply with the requirements in the Award and Special Conditions in **Attachment A** of this document and the applicable federal Assurances in **Attachment B** of this document. Both Attachment A and Attachment B are fully incorporated herein.
4. **Federal Procurement and Contracting Requirements:** A Sub-grantee is required to follow its own procurement procedures **as long as those procedures meet or exceed the federal procurement standards established in 44 CFR 13.36**. A summary of some of these federal procurement standards is included in **Attachment C** of this document, fully incorporated herein.
5. **Interest Income:** A Sub-grantee shall promptly, but at least quarterly, remit interest earned on advanced grant funds to the U.S. Department of Homeland Security. The Sub-grantee may keep interest earned, up to \$100 per fiscal year for administrative expenses.
6. **Applicability and Transfer of Requirements to Subawardees:** If the Sub-grantee subawards funds provided under the Agreement to another eligible entity or purchases equipment or other property with these funds and transfers the title of the equipment or other property to another eligible entity; the Sub-grantee shall do so through a sub-grant agreement or other contractual instrument that makes the entity that is the recipient of the funds, equipment, or property legally obligated to comply with all of the applicable terms and conditions contained in or referenced by the Agreement that are applicable to the Sub-grantee.
7. **Requirements Applicable to Property/Equipment Purchased Using Grant Funds:** For all tangible, nonexpendable, personal property having a useful life of more than one year and a per unit

cost of more than \$500 acquired in whole or in part with grant funds, the Sub-grantee must comply with the following requirements:

- A. Maintain records that include the following:
 - i. A description of the property;
 - ii. Manufacturer's serial number or other identification number;
 - iii. Source of the property;
 - iv. Identification of the title holder;
 - v. Acquisition date;
 - vi. Cost of the property;
 - vii. Percentage of Federal participation in the cost of the property;
 - viii. Location of the property;
 - ix. If the property was assigned to an individual, the name and title of the individual to which the property was assigned;
 - x. Use of the property;
 - xi. Condition of the property; and
 - xii. The ultimate disposition of the property, including the date of disposal and sale price.
 - B. A control system shall be developed and implemented to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and fully documented and made a part of the official project records. A copy of such documentation shall be promptly submitted to the State.
 - C. Adequate maintenance procedures shall be developed and implemented to keep the property in good condition.
 - D. The Sub-grantee shall take a physical inventory of the property and the result reconciled with the property records at least once every two (2) years. Any differences between quantities determined by the physical inspection and those in the accounting records shall be investigated to determine the cause of the difference. The Sub-grantee shall, in connection with the inventory, verify the existence, current utilization, current location, and continued need for the property.
 - E. For all property having an acquisition cost of over \$5,000, acquired in whole or in part with funds provided under the Agreement, the Sub-grantee must also comply with the applicable federal requirements pertaining to equipment in 44 CFR 13.32.
 - F. The Sub-grantee shall not dispose of any property acquired in whole or in part with funds provided under this Agreement, except in accordance with 44 CFR 13.32(e), if applicable, and any applicable state and local laws, rules and regulations.
 - G. The Sub-grantee agrees to the following:
 1. The equipment and any required support personnel shall be made available to the State of Indiana if requested as part of a state incident response.
 2. The equipment shall be made available to other jurisdictions within the Homeland Security District as a district asset. The use of the equipment shall be addressed through existing inter-jurisdictional mutual aid, district mutual aid or equipment-specific use agreements.
 3. Personal use of the equipment is not permitted.
 - H. If a Sub-grantee fails to comply with any part of this provision; the Sub-grantee may be required to repay to the State some or all of the funds provided to the Sub-grantee under the Agreement for the purchase of the property. In addition, such a failure to comply may jeopardize the Sub-grantee's ability to obtain future grants from the State.
 - I. These requirements are on-going and survive the expiration or termination of the Agreement and will remain in effect until the property is disposed of in accordance with the Agreement and applicable federal regulations.
8. **Hatch Act:** The Sub-grantee must comply with the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in

whole or part with federal funds (Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them). State and local employees subject to the Hatch Act continue to be covered while on vacation leave, annual leave, sick leave, leave without pay, administrative leave or furlough.

- **Political Do's and Don't's For State and Local Employees:** An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal loans or grants.

Allowed Political Activity	Prohibited Political Activity
May be a candidate for public office in a nonpartisan election	May not be a candidate for public office in a partisan election
May campaign for and hold elective office in political clubs and organizations	May not use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office
May campaign for and hold elective office in political clubs and organizations	
May actively campaign for candidates for public office in partisan and nonpartisan elections	May not directly or indirectly coerce contributions from subordinates in support of a political party or candidate
May contribute money to political organizations or attend political fundraising functions	
May participate in any activity not specifically prohibited by law or regulation	

- An election is partisan if any candidate for an elective public office is running as a representative of a political party whose presidential candidate received electoral votes at the preceding presidential election.

The Office of the Special Counsel: The Office of the Special Counsel is responsible for investigating reports or complaints of Hatch Act violations by covered employees of state and local governments. (<http://www.osc.gov/hatchact.htm>)

9. **Additional Federal Requirements:** The following are some federal requirements contained in the Guidance Document or the Special Conditions:
 - A. **Prohibited Use of Federal Funds.** No federal funds can be used, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
 - B. **FEMA Publications Statement.** All publications created with funding under any grant award shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, 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's Grant Programs Directorate or the U.S. Department of Homeland Security."
 - C. **Equipment Marking.** Any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security."
 - D. **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 framework, which enables members of the private sector, States and local jurisdictions to voluntarily submit sensitive information regarding critical infrastructure to U.S. DHS. The Act also provides statutory protection from public disclosure and civil litigation for CII that has been validated as PCII. When validated as PCII, the information can only be shared with government employees who complete the training requirement, who have homeland security duties, and a need to know. PCII accreditation is a formal recognition that the covered government entity has the capacity and capability to receive and store PCII appropriately. For additional information about PCII or the accreditation process, please contact the DHS PCII Program Office at pci-info@dhs.gov.

- E. **Compliance with Federal civil rights laws and regulations.** The Sub-grantee is required to comply with Federal civil rights laws and regulations. A sub-grantee is required to provide information, as required, to the State or the U.S. DHS Office for Civil Rights and Civil Liberties concerning its compliance with these laws and their implementing regulations. Specifically, the Sub-grantee is required to provide assurances as a condition for receipt of Federal funds that its programs and activities comply with the following laws and their implementing regulations and is required to comply with these laws and regulations:
- *Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 et seq.* – Provides that no person on the grounds of race, color, or national origin 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. Title VI also extends protection to persons with Limited English Proficiency (LEP). (42 U.S.C. §2000d et seq.)
 - *Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794* – Provides that no otherwise qualified individual with a disability in the United States, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or subject 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.* – Provides that no person, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.
 - *The Age Discrimination Act of 1975, as amended, 20 U.S.C. §6101 et seq.* – Provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.
- F. **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 Sub-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>.
- G. **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 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:
- **Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters:** This document provides guidance to assist emergency managers and shelter planners in understanding the requirements related to sheltering children and adults

with functional support needs in general population shelters. This Guidance is available at: http://www.fema.gov/pdf/about/odc/fnss_guidance.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/oer/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 <http://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.

H. **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).

I. **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 Sub-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. Sub-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. Sub-grantees may use these funds toward the costs of preparing such documents and/or implementing treatment or mitigation measures. Failure of the Sub-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.
 - Recipients 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. Recipients 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 be eligible for FEMA funding.**
 - For more information on FEMA's EHP requirements, the Sub-grantee should refer to FEMA's Environmental Planning and Historic Preservation Requirements for Grants Information Bulletin's #329, #345, and #356 at the following FEMA website: <http://www.fema.gov/government/grant/bulletins/index.shtm#0>. Additional information and resources can also be found at: <http://www.fema.gov/plan/ehp/ehp-applicant-help.shtm>.
- J. **Royalty-free License.** 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.
- K. **National Information Exchange Model (NIEM).** FEMA requires the use of 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>.
- L. **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 fund recipients to align any geospatial activities with the guidance available on the FEMA website at http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_geo.pdf.
- M. **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.

- N. **Best Practices for Government Use of CCTV.** DHS recommends that grantees seeking funds to purchase and install closed circuit television (CCTV) systems, or funds to provide support for operational CCTV systems, review and utilize the guidance in *Best Practices for Government Use of CCTV: Implementing the Fair Information Practice Principles* available on the DHS Privacy Office website at: http://www.dhs.gov/xlibrary/assets/privacy/privacy_rpt_cctv_2007.pdf.
- O. **National Preparedness Reporting Compliance.** *The Government Performance and Results Act* (Public Law 103-62) 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. Sub-grantees must 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.

ATTACHMENT A AWARD AND SPECIAL CONDITIONS



Department of Homeland Security, FEMA
Grant Programs Directorate

May 27, 2009

Washington, D.C. 20531

Mr. Joseph Wainscott
Indiana Department of Homeland Security
302 West Washington Street
E-208
Indianapolis, IN 46204

Dear Mr. Wainscott:

I am pleased to inform you that the Grant Programs Directorate has approved the application for funding under the FY 09 Buffer Zone Protection Program in the amount of \$1,000,000 for Indiana Department of Homeland Security. Through this accord, the Indiana Department of Homeland Security will use grant funding in the amount of \$1,000,000 from the Fiscal Year 2009 Buffer Zone Protection Program (BZPP) for costs related to equipment, planning activities, and the management and administration (M&A) of preventive and protective actions, aimed at protecting, securing, and reducing the vulnerabilities of jurisdictions responsible for the protection of identified critical infrastructure and key resource (CIKR) sites. This program will support national homeland security efforts by enhancing the coordination of Federal, State, and local efforts to develop and implement preventive and protective measures at identified CIKR sites in order to better safeguard the nation and minimize the potential for terrorist attacks.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Rene Phillips, Program Manager at (202) 786-9735;
- Financial and Payment Questions, Grants Management Division (GMD) at (866) 927-5646, or send an email to ask-GMD@dhs.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Ross Ashley, III".

W. Ross Ashley, III
Assistant Administrator, Grant Programs Directorate

Enclosures



Department of Homeland Security FEMA
Grant Programs Directorate

Grant

PAGE 1 OF 2

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) Indiana Department of Homeland Security 302 West Washington Street E-208 Indianapolis, IN 46204		4. AWARD NUMBER: 2009-BF-T9-0050	
		5. PROJECT PERIOD: FROM 04/01/2009 TO 03/31/2012 BUDGET PERIOD: FROM 04/01/2009 TO 03/31/2012	
1A. GRANTEE IRS/VENDOR NO. 356000162		6. AWARD DATE 05/27/2009	7. ACTION Initial
		8. SUPPLEMENT NUMBER 00	
		9. PREVIOUS AWARD AMOUNT \$ 0	
3. PROJECT TITLE Indiana FY 2009 Buffer Zone Protection Plan (BZPP) Projects		10. AMOUNT OF THIS AWARD \$ 1,000,000	
		11. TOTAL AWARD \$ 1,000,000	
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).			
13. STATUTORY AUTHORITY FOR GRANT This project is supported under Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, P.L. No. 110-329			
15. METHOD OF PAYMENT PAPRS			
AGENCY APPROVAL		GRANTEE ACCEPTANCE	
16. TYPED NAME AND TITLE OF APPROVING DHS OFFICIAL W. Ross Ashley, III Assistant Administrator, Grant Programs Directorate		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Joseph Wainscott Executive Director	
17. SIGNATURE OF APPROVING DHS OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL 	19A. DATE 5/26/09
AGENCY USE ONLY			
20. ACCOUNTING CLASSIFICATION CODES FISCAL YEAR 9 FUND CODE T BUD. ACT. BF DIV. OFC. 10 REG. 00 SUB. 00 POMS AMOUNT 1000000		21. BZ09V40021	

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



Department of Homeland Security
FEMA
Grant Programs Directorate

**AWARD CONTINUATION
SHEET
Grant**

PAGE 2 OF 2

PROJECT NUMBER 2009-BF-T9-0050

AWARD DATE 05/27/2009

SPECIAL CONDITIONS

1. The grantee and any subgrantee shall comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to DHS grants are listed below:
 - A. Administrative Requirements
 1. 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
 2. 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)
 - B. Cost Principles
 1. 2 CFR Part 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)
 2. 2 CFR Part 220, Cost Principles for Educational Institutions (OMB Circular A-21)
 3. 2 CFR Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
 4. Federal Acquisition Regulations (FAR), Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations
 - C. Audit Requirements
 1. OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
2. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
3. The recipient agrees that all allocations and use of funds under this grant will be in accordance with the FY 2009 Buffer Zone Protection Program guidance and application kit.
4. The recipient is prohibited from obligating, drawing down, or expending funds provided through this grant to the responsible jurisdiction(s) of the identified site until the Buffer Zone Plan (BZP) and Vulnerability Reduction Purchase Plan (VRPP) have been reviewed and approved by DHS.
5. The grantee is prohibited from obligating, expending or drawing down funds provided through this award until all applicable programmatic documents are provided for and approved by a DHS/FEMA Environmental and Historic Preservation review and an official notice has been issued removing this special condition.



Department of Homeland Security, FEMA

Grant Programs Directorate

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Jeffrey Hall, GPD NEPA Liaison

Subject: Incorporates NEPA Compliance in Further Developmental Stages for Indiana Department of Homeland Security

The recipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable 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). Failure of the recipient to meet Federal, State, and local EHP requirements and obtain applicable permits 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 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 prior to the full environmental and historic preservation review will result in a non-compliance finding.



Department of Homeland Security
FEMA
Grant Programs Directorate

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY**

Grant

PROJECT NUMBER

2009-BF-T9-0050

PAGE 1 OF 1

This project is supported under Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, P.L. No. 110-329

1. STAFF CONTACT (Name & telephone number)

Rene Phillips
(202) 786-9735

2. PROJECT DIRECTOR (Name, address & telephone number)

Andrew Zirkle
Grants Director
302 West Washington Street
E-208
Indianapolis, IN 46204
(317) 234-3321

3a. TITLE OF THE PROGRAM

FY 2009 Buffer Zone Protection Program

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

Indiana FY 2009 Buffer Zone Protection Plan (BZPP) Projects

5. NAME & ADDRESS OF GRANTEE

Indiana Department of Homeland Security
302 West Washington Street E-208
Indianapolis, IN 46204

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 04/01/2009 TO: 03/31/2012

8. BUDGET PERIOD

FROM: 04/01/2009 TO: 03/31/2012

9. AMOUNT OF AWARD

\$ 1,000,000

10. DATE OF AWARD

05/27/2009

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

Through this accord, the Indiana Department of Homeland Security will use grant funding in the amount of \$1,000,000 from the Fiscal Year 2009 Buffer Zone Protection Program (BZPP) for costs related to equipment, planning activities, and the management and administration (M&A) of preventive and protective actions, aimed at protecting, securing, and reducing the vulnerabilities of jurisdictions responsible for the protection of identified critical infrastructure and key resource (CIKR) sites. This program will support national homeland security efforts by enhancing the coordination of Federal, State, and local efforts to develop and implement preventive and protective measures at identified CIKR sites in order to better safeguard the nation and minimize the potential for terrorist attacks.

The Indiana Department of Homeland Security Fiscal Year 2009 Bi-Annual Strategy Implementation Reports (BSIR) provides a basis for DHS to evaluate the progress of implementing the BZPP with the State and/or Urban Area Homeland Security Strategy. DHS will conduct grant program monitoring activities to help further evaluate the program's efforts to reduce the vulnerabilities of the identified CIKR sites, and gauge the effectiveness of the State's homeland security implementation efforts.



ATTACHMENT B - ASSURANCES

OMB Approval No.: 4040-0007

Expiration Date: 07/30/2010

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

<p>* SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>Caitlin Intermill</p>	<p>* TITLE</p> <p>Executive Director</p>
<p>* APPLICANT ORGANIZATION</p> <p>Indiana Department of Homeland Security</p>	<p>* DATE SUBMITTED</p> <p>01/23/2009</p>

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ATTACHMENT C
MAKING PURCHASES USING FEDERAL GRANT FUNDS
Federal Procurement and Contracting Requirements

Federal Procurement and Contracting Requirements: A Sub-grantee is required to follow its own procurement procedures **as long as those procedures meet or exceed the federal procurement standards** established in 44 CFR 13.36. A brief summary of some of these federal requirements is as follows:

A. Procurement Methods (44CFR 13.36(d))

i. Small Purchase Procedure (44 CFR 13.36(d)(1))

- To purchase services and supplies of \$100,000 or less
 - Relatively simple and informal method
 - Cannot exceed simplified acquisition threshold of \$100,000
 - Must obtain price or rate quotation from adequate number of qualified sources (usually 3)
- Awarded based on lowest documented price quote

ii. Sealed Bids (Formal Advertising) (44 CFR 13.36(d)(2))

- For sealed bidding to be feasible, all of the following conditions should be present (generally used for construction and debris removal contracts):
 - A complete, adequate and realistic specification or description of project is available.
 - Two or more responsible bidders are willing and able to compete effectively.
 - Bids publicly solicited and advertised and a firm-fixed-price contract (lump sum or unit price) awarded
 - The procurement lends itself to a firm fixed price contract.
- If the sealed bid procurement method is used, the following requirements are applicable:
 - The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
 - The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.
 - All bids will be publicly opened at the time and place prescribed in the invitation for bids.
 - A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of
 - Any or all bids may be rejected if there is a sound documented reason
- Contract awarded to the responsible bidder whose bid conforms with invitation for bid and whose bid is lowest in price

iii. Competitive Proposals (44 CFR 13.36(d)(3))

Generally used to purchase Architectural, engineering or professional and personal services when conditions are not appropriate for the use of sealed bids.

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance.
- Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- Proposals will be solicited from an adequate number of qualified sources.
- The Sub-grantee must have a method for conducting technical evaluations of the proposals received and for selecting awardees
- Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered
- The Sub-grantee may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

iv. **Noncompetitive (Sole Source) proposals (44 CFR 13.36(d)(4))**

The following conditions are applicable to all sole source or noncompetitive procurements:

- (1) **Competitive Procurement must be infeasible:** A noncompetitive procurement can only be used when the award of a contract is infeasible under small purchase order procedures, sealed bids or competitive proposals and one (1) of the following circumstances apply:
 - (A) The item is available only from a single source;
 - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (C) The awarding agency (IDHS) authorizes noncompetitive proposals; or
 - (D) After solicitation of a number of sources, competition is determined inadequate.
- (2) **Cost analysis required:** Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (3) **Awarding agency review may be required:** A Sub-grantee is required to submit the proposed procurement to IDHS for pre-award review (in accordance with 44 CFR 13.36(g)).]

B. General Federal Procurement Standards (44 CFR 13.36(b)):

- Contracts must be monitored by the Sub-grantee to assure compliance with terms, conditions and specifications of contracts or purchase orders.
- The Sub-grantee must maintain written code of standards governing award and administration of contracts (conflicts of interest, selection and award, etc.) and the Sub-grantee must comply with the applicable federal conflict of interest requirements established in 44 CFR 13.36(b)(3)
- The Sub-grantee will review proposed procurements to avoid unnecessary or duplicate purchases
- Intergovernmental agreements for procurement are encouraged
- Use of excess and surplus property is suggested when feasible
- Use of value engineering clauses in construction contracts of sufficient size is encouraged
- Contracts will be awarded only to responsible contractors possessing ability to perform
- Supporting documents must be maintained and include - rationale for method of procurement, selection of contract type, contractor selection or rejection and basis for contract price
- Use of time and material contracts is limited to situations where 1) no other contract is feasible, and 2) includes a ceiling price. (This must be documented)
- The Sub-grantee will have responsibility for settlement of all contractual and administrative issues arising out of procurements
- The Sub-grantee must have protest procedures to handle and resolve disputes relating to procurements

C. Competition (44 CFR 13.36(c)):

- All procurement transactions will provide full and open competition. Examples of restrictive competition include:
 - a. Unreasonable requirements on firms in order for them to qualify
 - b. Requiring unnecessary experience or excessive bonding
 - c. Noncompetitive awards to consultants on retainer
 - d. Organizational conflicts of interest
 - e. Specifying only brand name products
 - f. Any arbitrary action in the procurement process
- Geographical preferences in evaluation of bids is prohibited
- Written selection procedures must be in place for all procurements identifying all requirements firms must fulfill
- Ensure all pre-qualified lists of persons, firms or products are current and include enough qualified sources to ensure maximum open and free competition

D. Affirmative Action (44 CFR 13.36(e)):

- The Subgrantee will take all necessary affirmative action steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible

E. Contract Cost and Price: (44 CFR 13.36(f))

- The Sub-grantee must perform cost or price analysis in connection with every procurement action

- The Sub-grantee must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
- Costs and prices based on estimated costs will be allowable only to the extent that they are consistent with Federal cost principles.
- Cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

F. State Review: (44 CFR 13.36(f))

- The Sub-grantee must make available to the State technical specifications on proposed procurements and, on request, make pre award documents available i.e. requests for proposals or invitations for bids, independent cost estimates.
- Review is required in all cases when a Sub-grantee’s procurement procedure fails to comply with standards, procurement exceeds simple acquisition threshold and is awarded without competition or only one bid or offer is received, or is awarded to other than low bidder or brand name is specified.
- The Sub-grantee may request that its procurement system be reviewed to determine whether its system meets these standards, or the Sub-grantee may self-certify its procurement system

G. Bonding Requirements: (44 CFR 13.36(h))

For construction or facility improvement contracts exceeding \$100,000, the State may accept the Sub-grantee’s bonding policy and requirements. If such a determination has not been made, the following are minimum bonding requirements

- A bid guarantee from each bidder equivalent to five (5) percent of bid price
- A performance bond from contractor for 100% of contract price
- Payment bond of the part of the contractor for 100% of the contract price.

H. Types of Contracts

Lump sum:	Contract for work within a prescribed boundary with a clearly defined scope and total price
Unit price	Contract for work done on an item-by-item basis with cost determined on a unit basis
Cost + fixed fee	Either a lump sum or unit price contract with a fixed contractor fee added into price
Time & materials	Should be avoided, but may be allowed for work necessary immediately after disaster and after a determination that no other contract is suitable; include a cost ceiling or “not to exceed” provision [44CFR13. 36(b)(10)]
Cost plus %of cost	Not allowed by FEMA Regulations
Contingency	Not allowed by FEMA Regulations

I. Contract Provisions: (44 CFR 13.36(i)) Contracts must contain these provisions:

- Administrative, contractual or legal remedies in instances where contractors violate or breach contract terms—Contracts for more than \$100,000.
- Termination clause for cause and termination for convenience—Contracts for more than \$10,000.
- Compliance with Equal Employment Opportunity regulations—All construction contracts awarded in excess of \$10,000.
- Compliance with Anti-Kickback regulations—All contracts for construction or repair
- Compliance with Davis-Bacon Act –Construction contracts in excess of \$2,000
- Compliance with Contract Work Hours and Safety Standards Act—Construction contracts in excess of \$2,000, and in excess of \$2,500 for contracts which involve the employment of mechanics or laborers
- Notice of reporting requirements and regulations pertaining to reporting—All contracts
- Notice of requirements pertaining to patent rights—All contracts
- Notice of requirements pertaining to copyrights and rights in data—All contracts
- Access of any records by grantee, sub grantee, Federal grantor, Comptroller or any duly authorized representatives—All contracts
- Records must be retained for at least three years after final payments are made—All contracts
- Compliance with CAA, CWA, EPA regulations—Contracts in excess of \$100,000.
- Mandatory standards relating to energy efficiency—All contracts
- The Lobbying Certification—All contracts
- Federal Debarment and Suspension Requirements—All contracts
- Trafficking in Persons Requirements—All contracts