



Homeland Security and Emergency Services

NYS Division of Homeland Security and Emergency Services

2016-17

**Hazardous Materials Emergency
Preparedness (HMEP) Grant Program:**

Request for Applications

Application Deadline: April 8, 2016

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I. Introduction

The Hazardous Materials Transportation Uniform Safety Act of 1990 (P.L. 101-615), authorized DOT to provide assistance to public sector employees through training and planning grants to States, Territories, and federally recognized Native American Tribes for emergency response. The purpose of this grant program is to increase State, Territorial, Tribal, and local effectiveness in safely and efficiently handling hazardous materials incidents, enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), and encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations.

On December 4, 2015, The Fixing America's Surface Transportation (FAST) Act was signed into law (Public Law No: 114-94). The FAST Act reauthorized the HMEP Grant Program through Fiscal Year (FY) 2020. Also, Title VII, Section 7203 of the FAST Act amended 49 U.S.C. § 5116 to combine planning and training grants into Section 5116 (a). Therefore, beginning in FY16 HMEP, local applicants are now able to apply for funds to support both planning and training activities.

Under 49 U.S.C. § 5116, Training and Planning Grants are available to:

(1) Develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. § 11001 et seq.), including ascertaining flow patterns of hazardous materials on lands under the jurisdiction of a State or Native American tribe, and between lands under the jurisdiction of a State or tribe and lands of another State or tribe.

(2) Train public sector employees to respond to accidents and incidents involving hazardous material incidents. To the extent that a grant is used to train emergency responders, the applicant must ensure that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations.

The purpose of this Request for Applications (RFA) is to solicit applications for Hazardous Materials Emergency Preparedness (HMEP) funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES) for New York State's counties.

Funding must be used in support of eligible activities that support the purpose of the HMEP Grant Program. Supplanting is not allowed.

Through this grant, DHSES is re-affirming its commitment to encouraging a regional approach of building and sustaining HazMat planning capabilities in New York State. In this austere budget era, working collaboratively on a regional basis is even more critical. By allowing the option for counties to apply regionally through a common fiduciary agent, the HMEP Grant Program will promote regional HazMat preparedness, complement existing relationships established through the HazMat Targeted Grant Program, and leverage all available funding streams to achieve the greatest possible impact from

this limited funding opportunity. Regional applicants are encouraged, but not required, to use the existing regional HazMat Fiduciary Agent for the HMEP Grant Program.

II. Changes from 2015-16

There are several changes to the FY 2016 HMEP grant cycle.

1. The 2016-17 HMEP Grant Program has combined the previously separate Planning and Training grants into a single grant program. Previously, only HMEP Planning grants were made available to counties. Please refer to Appendix A, the Allowable Costs Matrix, for information on allowable costs.
2. Previously, the State was required to pass through 75% of Planning grant funds to LEPCs. The State must now ensure that 75% of all funds received by the state are used for programmatic purposes (i.e., planning and training activities). Every county is eligible to receive FY2016 HMEP funding. Therefore, the State will no longer require the signature of the LEPC chair on an application. Instead, the State will now require that either the Emergency Manager or Fire Coordinator endorse the application.
3. The requirement for sub-recipients to be compliant with the Emergency Planning and Community Right to Know Act (EPCRA) is no longer a condition of funding for this grant program. While no longer a condition of eligibility for this program, all counties are strongly encouraged to be compliant with EPCRA.
4. The Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) is now requiring that the details of any sub-grants made to counties must be provided to PHMSA at the time that the state applies for funding. Therefore, New York State must receive local applications prior to submitting its application to DOT for funding.
5. In the past two application cycles, if all eligible counties did not apply for funding, any funding that was unallocated by the formula was divided equally among all counties seeking funding for crude oil preparedness projects. For the 2016-17 HMEP Grant Program, there will no longer be supplemental funding in addition to the amount made available by formula.
6. As HazMat training is now an allowable expense for counties under the grant program, in order to ensure that maximum effectiveness of these limited funds, any requests to use HMEP funding to support training activities must be reviewed and pre-approved by the Office of Fire Prevention and Control (OFPC). A list of requested training must be provided at application.

Appendix A, the Allowable Costs Matrix, has been updated to reflect the revised guidance provided by PHMSA.

III. HMEP Funding Priorities

Due to limited funding, DHSES and PHMSA encourage sub-recipients to use HMEP funds on activities that maximize transportation safety benefits to the community. The HMEP grant program prioritizes efforts that lead to the prevention of serious hazmat transportation related incidents, principally those of

high consequence to people and the environment. Activities must be related to preparedness for the transportation of hazardous materials under this program.

The DHSES and PHMSA top priority for the 2016-17 HMEP Grant Program emphasizes preparedness for the bulk transportation of energy products by rail and over the road. Applicants are also encouraged to conduct commodity flow studies to determine the frequency and quantity of hazmat shipments being transported through local communities, and to train emergency responders to respond appropriately to incidents involving bulk shipments of energy products as well as other hazardous materials. Applicants are also encouraged to consider the development of Geographic Response Plans for crude oil response, and to address regional planning deficiencies required to achieve accreditation under the State's HazMat Accreditation Program.

When drafting applications, DHSES encourages applicants to consider the following topics:

1. Current risk involving transport by all modes of energy products such as crude oil, ethanol, and liquefied natural gas (LNG);
2. Current state of operational readiness/capability;
3. Familiarity with bulk shippers emergency response plans/procedures;
4. Available training resources (sources, accessibility, gaps in training); and
5. Needs of emergency responders/public safety agencies.

IV. Available Funding

For 2016-17, a total of up to \$300,000 in federal funding is available for the local HMEP Grant Program. Funding is available to each county in the state based on a formula. **Each county and the City of New York is being offered \$5,172 by formula under this grant program.**

For 2016-17, the State has increased the total available funding for the local HMEP Grant Program to \$300,000 from the 2015-16 amount of \$221,296. However, NYS is projected to receive a reduction of approximately 40% in available funding for the 2017-18 and 2018-19 funding years. As such, counties are hereby advised that future funding will likely be significantly reduced, and the State may restructure the program to ensure the most effective use of this very limited funding stream.

V. Eligible Applicants

Each county in the state, and the City of New York, is eligible to apply for funding. There is no longer a requirement for counties to be compliant with EPCRA in order to be eligible to receive these funds.

Regional applicants must identify a Fiduciary Agent to apply for HMEP funding on behalf of an entire region. Regional applicants are encouraged to apply in partnership with existing HazMat regions (see Appendix B for a map of HazMat regions).

VI. Regional Applications- Role of the Fiduciary Agent (FA)

As part of the 2016-17 application process, counties may pool multiple county allocations and apply regionally for funding. Counties may, but are not required to, apply as a partnership consistent with each of the HazMat regions outlined in Appendix B. The designated Fiduciary Agent for HMEP for each region is the only entity eligible to apply on behalf of any interested counties within the regional partnership. Where applicable, DHSES encourages (but does not require) existing HazMat Targeted Grant Program Fiduciary Agents to take on this role to maximize the existing relationships established through the HazMat Targeted Grant Program and to leverage all available funds for HazMat preparedness within the region. If the existing HazMat Targeted Grant Fiduciary Agent is unable or unwilling to take on this role for the HMEP program, a different county may assume that role for the HMEP program.

The responsibilities of the Fiduciary Agent include:

- Serve as the primary Point of Contact (POC) for DHSES on the grant.
- Ensure that all participating counties within the region are included in regional efforts.
- Submit budgets for HMEP Grant funds in coordination with and on behalf of the region.
- Coordinate purchasing and other efforts related to the HMEP Grant on behalf of the region.
- Complete all required grant reporting forms in coordination with and on behalf of the region.

VII. Project and Budget Periods

Funds are available per the Fixing America's Surface Transportation (FAST) Act. The period of performance for the 2016-17 HMEP Grant Program runs from September 30, 2016 through September 30, 2017.

VIII. Progress Reporting

All counties and Regional Fiduciary Agents receiving funding through this program will be expected to complete quarterly progress reports in E-grants and submit quarterly fiscal reports to DHSES. Quarterly reports will be due 30 days after the close of each quarter. Sub-recipients will be requested to complete close out reports as needed with information necessary to satisfy US DOT PHMSA reporting requirements.

IX. Authorized Program Expenditures

HMEP Training and Planning Grants are available to:

1. Develop, improve, and carry out emergency plans under EPCRA, including ascertaining flow patterns of hazardous materials on lands under the jurisdiction of a State or Native American

tribe, and between lands under the jurisdiction of a State or tribe and lands of another State or tribe.

2. Train public sector employees to respond to accidents and incidents involving hazardous material incidents. To the extent that a grant is used to train emergency responders, the applicant must ensure that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous materials in accordance with existing regulations.

General Guidelines:

Fund Use: Routine operating expenses are **NOT** eligible costs.

HMEP Grant funds are to be used for:

- “Transportation-related” HazMat safety planning and training expenditures and activities.
- Efforts that lead to increased effectiveness in safely and efficiently handling HazMat accidents and incidents (excluding equipment purchases).

Permissible Costs: Grant funding may be used for certain planning, training, and exercise costs allowable under the Hazardous Materials Emergency Preparedness (HMEP) Grant Program. Please refer only to Appendix A, “Allowable Costs Matrix” for detailed information on this program’s allowable costs. **All costs must support the execution of an allowable activity or project related to preparedness for incidents involving the transportation of hazardous materials.**

Sub-recipients must propose activities or projects that will be accomplished using HMEP funds. These activities may consist of:

- General preparedness planning (develop, improve, and implement transportation emergency plans under Title III);
- HazMat commodity flow studies and hazard analysis;
- Regional response strategy selection;
- HazMat drills and exercises to test state and county emergency response capabilities and identify gaps in training and planning;
- HazMat tabletop exercises; and
- HazMat communications exercises.
- Train emergency responders to respond appropriately to incidents involving bulk shipments of energy products as well as other hazardous materials.

1) Travel

Travel costs should relate to expenses to and from planning and training activities. When submitting for reimbursement, sub-recipients should include the following:

- Lodging;
- Pier Diem;
- Transportation (air, train, bus, or rental car); and
- Registration fees for conferences and workshops.

For other than local travel, sub-recipients should provide additional information including the purpose for the trip, programmatic need, and location.

2) Supplies

Costs must be related to the purchase of supplies solely dedicated to the activities proposed under the HMEP grant. Requests should identify categories of supplies to be procured (e.g., publications, manuals, paper, and pens) for use during proposed activities. Supplies requested must be in support of eligible project activities, and a clear and detailed description detailing how the supplies relate to the proposed project is required.

3) Consultants

This includes any procurement of services from individual consultants or commercial firms. These costs are contractual agreements between the sub-recipient and contractor(s) to complete work on behalf of sub-recipient. Activities may consist of the following:

- Developing, improving, and implementing emergency plans required under Title III (must include the transportation component);
- Performing hazard assessments and gap analysis to determine hazmat safety risks within a jurisdiction, state, or region;
- Improving interagency interoperability to better respond to and mitigate hazmat incidents;
- Enhancing emergency plans to include hazard analysis as well as response procedures for emergencies involving transportation of hazmat, including radioactive materials;
- Determining flow patterns of hazmat within a state; between a state and another state, territory, or Native American tribe; and the developing and maintaining a system to keep information current;
- Assessing the need for regional hazmat emergency response teams;
- Assessing local response capabilities; and
- Performing emergency response drills and exercises associated with emergency preparedness plans;

Costs Not Permissible:

The following costs are not eligible for reimbursement under the HMEP Program:

- (a) Expenses not related to the transportation of hazardous materials.
- (b) Expenses claimed and or reimbursed by another program.
- (c) Expenses counted as match funds toward another Federal program.
- (d) Expenses that supplant existing operational funds/programs.
- (e) Entertainment, alcohol, morale costs.
- (f) Any costs disallowed or stated as ineligible in 2 CFR part 200.
- (g) Excessive costs for general office supplies, equipment, computer software, printing and copying.
- (h) Overtime and Backfill
- (i) Management and Administration
- (j) Response Equipment

- (k) WMD/Terrorism related expenses
- (l) Routine operational expenses for LEPCs

Supplanting is not allowable. If you have any questions regarding supplanting, please send them to grant.info@dhses.ny.gov.

X. Matching Requirements

Sub-recipients must provide 20 percent of the total project cost of all approved activities with non-federal funds.

Examples of cost sharing contributions (matches) allowed under this grant include:

- Travel, equipment or supply purchase, space usage, the dollar value of a participant's time during an approved Planning or Training activity.
- Private contributions such as corporate contributions of facilities or services. (e.g., tank car, cargo tank trailers, van trailer, training site, hazardous materials (HazMat) equipment, first aid ambulance stand-by, classroom space).
- Voluntary contributions such as emergency personnel support, the time of any LEPC member participating in the eligible activity, or exercise participation.

Sub-recipients can provide their Match Share contribution in a different budget category than the federal Share, the same budget category as the federal Share, or any combination of categories that provides for 20 percent of the total project cost.

Costs that **CANNOT** be used for matching contribution include:

- Funds used for matching purposes under any other Federal grant or cooperative agreement.
- Federal funding received through another federal program.
- Funds expended by a recipient agency to qualify for the grant.
- Costs incurred outside of the grant performance period.

XI. Spending Plans

Each applicant is being offered a funding allocation determined by formula.

Each successful applicant is required to develop a spending plan for their allocation. For regional applications, the spending plan must be developed via an inclusive process, with representatives from all interested counties within the region. It will be the responsibility of the Fiduciary Agent to oversee this process within the region. As part of the regional grant application, the Emergency Manager or Fire Coordinator (depending on who the most appropriate official is based on the proposed project) from each participating county must provide his/her signature to certify that consensus was reached and that the plan proposed best meets the needs of the entire region.

XII. Application Format and Content

Each proposed Spending Plan and Application Worksheet must be submitted to DHSES via a Microsoft Excel template. The Worksheet includes applicant contact information as well as budget and project details.

The Application Worksheet also includes a section for Regional Applicants where each Emergency Manager or Fire Coordinator in a given region will be required to provide their signature to certify that consensus was reached on the Regional Spending Plan and that the plan best meets the needs of the entire region. For applications that represent a single county, the county's Emergency Manager or Fire Coordinator shall sign the application.

All documents must be submitted via email to DHSES (grant.info@dhses.ny.gov) by **April 8, 2016**.

XIII. Application Review Process

Each application will be reviewed carefully by representatives from the Division of Homeland Security and Emergency Services. DHSES reserves the right to contact applicants to request clarification and/or additional information to substantiate their requests. All requests for funding must ultimately be approved by the Commissioner of DHSES.

XIV. Timeline and Checklist of Required Documents

Applications are due to DHSES by **April 8, 2016**. Applications must be submitted to DHSES via email (grant.info@dhses.ny.gov). Applications that are not received by the due date will not be considered for funding.

Complete applications must include:

1. Spending Plan and Application Worksheet (in Excel)
2. Regional Applications must include signatures from each county Emergency Manager or Fire Coordinator in a given region certifying their consensus with, and approval of, the Regional Spending Plan.

XV. Administration of Grant Contracts

Once the applications are approved by the Commissioner of DHSES, the State will negotiate and develop a grant contract with the Fiduciary Agent (FA) of each county or region. The grant contract is subject to approval by the NYS Office of the Attorney General and the Office of the State Comptroller before grant funding may be disbursed to reimburse project expenses. The period of performance for contracts is September 30, 2016 – September 30, 2017. Copies of standard terms and conditions

included in DHSES grant contracts are available for review online at:
<http://www.dhSES.ny.gov/grants/forms-egrants.cfm>.

The HMEP program is authorized under 49 United States Code (U.S.C.) §5116 and is governed by program regulations at 49 Code of Federal Regulations (CFR) 110 and Federal grants administration regulations, now organized at 2 CFR Part 200. Sub-recipients agree to adhere to all applicable state and federal regulations.

A. Issuing Agency

This RFA is issued by DHSES, which is responsible for the requirements specified herein and for the evaluation of all applications.

B. Reservation of Rights

DHSES reserves the right to:

1. Postpone, cancel or extend this RFA upon notification on the DHSES website.
2. Amend the specifications after release with appropriate notice on the DHSES website. The applicant, however, shall remain solely responsible to check the website periodically for updates and conform to such requirement prior to the final deadline.
3. Award more than one or no contracts resulting from this RFA.
4. Reject any or all applications received in response to this RFA.
5. Seek clarifications and revisions of applications.
6. Waive or modify minor irregularities in applications received after prior notification to the applicant.
7. Adjust or correct cost figures, with the concurrence of the applicant, if errors exist and cannot be documented to the satisfaction of DHSES and the State Comptroller.
8. Negotiate with applicants responding to this RFA within the requirements to serve the best interests of the State.
9. Award grants based on geographic or regional considerations to serve the best interests of the State.
10. Eliminate mandatory requirements unmet by all applicants.
11. Waive any requirement that is not material.
12. If DHSES is unsuccessful in negotiating a contract with the selected applicant within an acceptable timeframe, DHSES may begin contract negotiations with the next qualified applicant(s) in order to serve and realize the best interests of the State.
13. Award grants based on the best interests of the State.
14. Terminate, renew, amend or renegotiate contracts with sub-recipients at the discretion of DHSES.
15. Periodically monitor the sub-recipient's performance in all areas mentioned above, in addition to the activities in the contract.
16. Revoke funds awarded to an applicant, or enforce any available sanction against any applicant, who materially alters the activities or is in material noncompliance under the grant award, or who does not implement an approved project within 60 days of the final contract approval.
17. Release, in whole or in part, the contents of the application subject to the Freedom of Information Law or for any other purposed deemed suitable by DHSES. All applications will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. Any portion of the application that an applicant believes constitutes proprietary information entitled to confidential handling, as an exception to the

Freedom of Information Law, must be clearly and specifically designated in the application. If DHSES agrees with the proprietary claim, the designated portion of the application will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

18. Recipients and sub-recipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the recipient or sub-recipient; and (2) the status of any corresponding recipient or sub-recipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.
19. Funded recipients and sub-recipients agree to attend and participate in any DHSES-sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

C. Term of the Contract

Any resulting contract or agreement for more than \$50,000 from this RFA will be effective only upon approval by both the NYS Office of the Attorney General and State Comptroller. Any resulting contract for under \$50,000 from this RFA will be effective upon signature of both parties.

D. Payment and Reporting Requirements of Grant Awardees

1. Standard Cost Reimbursement Contract

Each successful applicant must enter into a standard cost reimbursement contract with DHSES. Such contract will include this Request for Applications, the successful applicant's proposal, any attachments or exhibits and the standard clauses required by the NYS Attorney General for all State contracts (available upon request). The contract will be subject to approval by the Attorney General and State Comptroller. Although the contract format may vary, the contract will include such clauses, information and rights and responsibilities as can be found on the DHSES website, including:

- APPENDIX A-1 - Agency Specific Clauses or a Letter of Agreement (Depending upon Funding Amount)
- APPENDIX B - Budget
- APPENDIX C - Payment and Reporting Schedule
- APPENDIX D – Workplan/Special Conditions

For purposes of this RFA, these terms and conditions are incorporated by reference and the applicant must agree to the inclusion of all of these terms and conditions in any resulting grant contracts as part of the application submission. Copies of the standard terms and conditions included in DHSES grant contracts are available for review on the DHSES website at <http://www.dhSES.ny.gov/grants/forms-egrants.cfm>. Payments will be made subject to proper documentation and compliance with reimbursement procedures and all other contractual requirements.

2. Compliance with State and Federal Laws and Regulations, Including Procurement and Audit Requirements

2 CFR Part 200

Recipients and subrecipients (also referred to herein as “Contractors” and “Subcontractors”) are responsible to become familiar with and comply with all state and federal laws and regulations applicable to these funds. Applicants are required to consult with the DHSES standard contract language (referenced above) for more information on specific requirements. Additionally, recipients must comply with all the requirements in 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards). Recipients are required to understand and adhere to all federal requirements. You may access 2 CFR Part 200 at <http://www.ecfr.gov/cgi-bin/text-idx?SID=1c9afe07b881b32365c2f4ce1db64860&mc=true&node=pt2.1.200&rgn=div5>.

Procurements

Additionally, Applicants must follow and comply with all procurement procedures under General Municipal Law 5A and 2 CFR Part 200, Subpart D (see 2 CFR §§200.317-.326), and/or any other state or federal regulations applicable to these funds, and will be subject to monitoring by DHSES to ensure compliance.

Single Audit

For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all Federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of U.S. Government Accountability Office’s (GAO) Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and the requirements of [Subpart F of 2 CFR Part 200](#).

For audits of fiscal years beginning prior to December 26, 2014, recipients that expend \$500,000 or more from all Federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO’s Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2012.

Conflict of Interest

Pursuant to 2 CFR §200.112, in order to eliminate and reduce the impact of conflicts of interest in the sub-award process, recipients and pass-through entities must follow their own policies and procedures regarding the elimination or reduction of conflicts of interest when making sub-awards. Recipients and pass-through entities are also required to follow any applicable state, local, or Tribal statutes or regulations governing conflicts of interest in the making of sub-awards.

The recipient (State) must disclose to the respective Contract Representative, in writing, any real or potential conflict of interest as defined by the Federal, state, local, or Tribal statutes or regulations or their own existing policies, which may arise during the administration of the Federal award within five days of learning of the conflict of interest (see 2 CFR §200.113). Similarly, sub-recipients must

disclose any real or potential conflict of interest to the pass-through entity (State) as required by the recipient's conflict of interest policies, or any applicable state, local, or Tribal statutes or regulations.

Conflicts of interest may arise during the process of DHS/FEMA making a Federal award in situations where an employee, officer, or agent, any members of his or her immediate family, his or her partner has a close personal relationship, a business relationship, or a professional relationship, with an applicant, sub-applicant, recipient, sub-recipient, or DHS/FEMA employees.

Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms

Pursuant to New York State Executive Law Article 15-A, the New York State Division of Homeland Security and Emergency Services recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of New York State Division of Homeland Security and Emergency Services contracts.

Consistent with 2 CFR §200.321, non-Federal contracting entities must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

For purposes of this solicitation, applicants and sub-recipients are hereby notified the State of New York has set an overall goal of **30% for MWBE participation** or more, **15% for Minority-Owned Business Enterprises** ("MBE") participation and **15% for Women-Owned Business Enterprises** ("WBE") participation, based on the current availability of qualified MBEs and WBEs for your project needs.

3. Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

4. Vendor Responsibility

Recipients/Contractors shall at all times during the Contract term remain responsible. The Recipients/Contractor agrees, if requested by the Commissioner of DHSES, or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

- a) **Suspension of Work for Non-Responsibility:**
The Commissioner of DHSES or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when he or she discovers information that calls into question the responsibility of the Recipient. In the event of such suspension, the Recipients/Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHSES or his or her designee issues a written notice authorizing the resumption of performance under the Contract.

- b) **Termination for Non-Responsibility:**
Upon written notice to the Recipients/Contractor, and a reasonable opportunity to be heard by appropriate DHSES officials or staff, the Contract may be terminated by the Commissioner of DHSES or his or her designee at the Contractor's expense where the Recipients/Contractor is determined by the Commissioner of DHSES or his or her designee to be non-responsible. In such event, the Commissioner of DHSES or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue legal or equitable remedies for breach. Sub-recipients shall at all times during the Contract term remain responsible. The Sub-recipient agrees, if requested by the Commissioner of DHSES, or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

E. Satisfactory Progress

Satisfactory progress toward implementation includes, but is not limited to; executing contracts and submitting payment requests in a timely fashion, retaining consultants, completing plans, designs, reports, or other tasks identified in the work program within the time allocated for their completion. DHSES may recapture awarded funds if satisfactory progress is not being made on the implementation of a grant project.

F. General Specifications

By submitting the application, the applicant attests that:

1. Applicant has express authority to submit on behalf of the applicant's agency.
2. Submission of an application indicates the applicant's acceptance of all conditions and terms contained in this RFA, including Appendices A-1 and C, and all other terms and conditions of the award contract.
3. The application and any resulting grant, if awarded, must adhere to, and be in full compliance with any, resulting contract(s) and relevant federal and states policies and regulations or be subject to termination.

4. Any not-for-profit recipients are required to be prequalified, prior to contract execution, by the State of New York upon application submission through the New York State Grants Gateway (<https://grantsgateway.ny.gov>)

G. Special Conditions

New York State Emergency Management Certification and Training Program

1. Participation in, and successful completion of, the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES-specified county and city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.
2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, Contractors must arrange for DHSES-specified Contractor employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the Contractor will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day-cycle from the date of initial training for previously trained individuals if such person remains employed by the Contractor and fulfilling the same functions as he or she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES-specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.
3. Contractors must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Recipients must be aware that the process of conducting a DHSES Annual Risk Assessment is an ongoing process and requires a continued commitment on the part of the Contractor to ensure that it is effective.
4. All recipients and sub-recipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the recipients or sub-recipients; and (2) the status of any corresponding recipients or sub-recipients plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.
5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man-made disasters. Funded recipients and

sub-recipients agree to attend and participate in any DHSES-sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.

XVI. Questions

Questions regarding the 2016-17 Hazardous Materials Emergency Preparedness (HMEP) Grant Program should be directed to the following email address: grant.info@dhses.ny.gov. To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers.

Appendix A: Allowable Costs Matrix

Reminder: Please note that the allowable costs for the 2016-17 HMEP Grant Program are provided as a guideline and do not necessarily include every allowable cost. Additionally, it is not possible to list every unallowable expense. Because of the specialized nature of this grant program, applicants are encouraged to consult with their Contract Unit Program Representative if they have any question regarding eligible costs for this program. Accordingly, please refer only to Appendix A of this Request for Applications (RFA) for details on allowable costs. All costs must relate to an allowable activity or project.

Allowable Planning Activities- Must Have Transportation of HazMat Focus
<i>Enhancing HazMat Plans</i>
Developing, improving, and implementing emergency plans required under the Emergency Planning and Community Right-to-Know Act of 1986
Workshops, drills, and exercises associated with HazMat emergency plans
Risk assessments to enhance plans
Capability assessments that evaluate the ability for first responders, NGOs, and other involved stakeholders to respond to a HazMat emergency
Gap analysis to enhance planning objectives
Improving interagency interoperability to better respond to and mitigate hazmat incidents
Determining commodity flow patterns of hazmat, and developing and maintaining a system to keep such information current
Assessing the need for regional hazmat emergency response teams
Providing technical staff to support planning efforts (consultants)
Aerial photography for use with Commodity Flow Study research
<i>Planning & Training Courses</i>
Courses aimed at developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act (EPCRA) sections 301 and 303 (42 USC 116)
HazMat transportation emergency preparedness and response courses. Courses required to meet NFPA 472 or OSHA 29 CFR 1910.120 competencies. Grant funds may be used for travel and per diem to attend OFPC provided HazMat training. Other training requests must be provided at application and must be pre-approved by OFPC.
HazMat risk analysis
Commodity Flow Study courses
Regional Response Strategy Selection courses
<i>Allowable Planning & Training Equipment, Supplies, and Materials</i>
Supplies required for HMEP funded exercises and activities
Computer equipment used exclusively for activities allowable under this HMEP Grant (e.g., approved computer-based training activities). Must provide detailed justification
HazMat publications for permanent collections, such as the NFPA 472 guide
Rental equipment necessary to provide specific training. In most cases, equipment costs are expected not to exceed 5 percent of the total cost of the grant awarded and must be fully justified
Publications, manuals, and other materials necessary to provide training and are used by instructor(s) and trainees--where appropriate, this may include the printing and copying of such

materials and any cost of distributing these materials (such as mailing the materials to trainees in advance of the first training session)

Simulation software for training courses

Hazmat training suits for specific transportation related exercises

Firefighting foam for specific transportation related exercise

Examples of Allowable Training and Planning Conferences:

National Association of SARA Title III Program Officials (NASTTPO) Conference

State-wide conference emphasizing Hazmat emergency response capabilities, collaboration, networking, and planning opportunities for responders, particularly those related to transportation

International Association of Fire Chiefs (IAFC) International Hazmat Conference, www.iafc.org. The IAFC hosts the International Hazardous Materials Response Team Conference, which presents “what’s new in HazMat” and how it impacts today’s HazMat teams on the job

Regional HAZMAT Conferences and Workshops, specifically those related to transportation

HazMat Continuing Challenge, www.hazmat.org. The Continuing Challenge provides safe response training for all emergency responders to HazMat incidents affecting transportation, public health, and the environment. This annual workshop is attended by HazMat responders from across the globe and is held every September in Sacramento, CA

HOTZONE, www.hotzzone.org. The HOTZONE Committee is composed of representatives from the local, state, and federal levels of the HazMat response community serving Federal Region 6. This annual training conference provides HazMat technical training and promotes professional relationships within Region 6 to meet the unique needs of this region

TRANSCAER® (Transportation Community Awareness and Emergency Response), www.transcaer.com. TRANSCAER® is a voluntary national outreach effort focusing on assisting communities with preparing for, and responding to, possible HazMat transportation-related incidents. TRANSCAER® educates emergency responders and their communities and includes safety training cars from the Firefighters Education and Training Foundation

Midwestern Hazmat Conference, <http://www.emerysafety.com/mhmrc/index.html>

Two-day conference on hazmat and related response training presented by instructors in the HazMat response community

Fire Department Instructors’ Conference (FDIC), www.fdiconlineevent.com. Comprehensive training for all levels of fire service practitioners with more than 24 hands-on training evolutions, 34 pre-conference workshops, and more than 160 classroom presentations

Fire Rescue International, <http://fri.iafc.org/>. Presented by the IAFC, Fire Rescue International (FRI) brings together more than 13,000 fire and emergency services leaders from across North America and around the globe for 5 days of networking, learning, and collaboration

Allowable General Training Expenditures

Reimbursement for instructor(s) and trainees for tuition and travel expenses (lodging and per diem) to and from a training facility

Facility rental cost reimbursement

Expenses associated with training, such as staff to support the training effort, evaluation forms, etc.

Conditionally Allowable Training and Planning Expenses- Requires pre-approval by US DOT

Emergency Operations Center (EOC) Leadership Training and Exercises- Conditions include: Leadership exercises for events concerning HazMat preparedness and response

Hospital Drills- Conditions include: Decontamination from a transportation incident (radiological, chemical, or other HazMat)

Fixed-facility hazmat training and preparedness– Conditions include: Training, exercises and plans that include transportation of materials to and from fixed facilities; exercises that test the same

capabilities that would be used to respond to a hazmat transportation incident
Title III Software (e.g., CAMEO/PEAK/PLUME) – Use of software must be tied to planning for transportation of materials to and from fixed-facilities; training and exercises that test the same capabilities that would be used to respond to a HazMat transportation incident
Exhibitors for Outreach and Preparedness Booths- Activity must tie-in to hazardous materials transportation

Unallowable Costs

Management and Administrative (M&A) Costs
Management & Administration costs are not allowable
Unallowable Costs for All Planning Grant Categories
Natural Disaster Exercises (e.g., Pandemic Flu, avalanches, cruise ship, wildfire, earthquake)
All-Hazards Warning System Drills
Joint Terrorism Task Force (JTTF) Exercises
WMD/Terrorism activities
Tier II Chemical Inventory Reports
Tier II Databases
WebEOC (EOC-Emergency Operations Center) mapping
Public Officials Conference without sufficient tie-in to Hazmat Incidents in Transportation
Town-wide (or jurisdiction-wide) alert system
Development and distribution of a Hazmat Calendar
Entertainment costs
Foreign travel
Equipment, including the purchase of cell telephone(s)
Any costs disallowable or stated as ineligible in 49 Code of Federal Regulations (CFR) Part 110 Final Rule
Any cost specifically prohibited in the General Terms and Conditions of the award, or Special Terms and Conditions listed on the Notification of Grant Award (Remarks section)
Expenses counted as matching funds toward another Federal grant program or cooperative agreement
Overtime and Backfill
Unallowable Training Expenditures
Courses not related to hazmat emergency response
Emergency Preparedness Presentation to Child Care Providers
School Violence Prevention
Weapons of Mass Destruction (WMD) Terrorism courses
Weapons of Mass Destruction (WMD) Radiological Training
Pandemic Flu Exercises
Joint Terrorism Task Force (JTTF) Exercises
Equipment for the purpose of response operations, such as:
– Self-Contained Breathing Apparatus (SCBA)
– PPE (Personal Protective Equipment)
– Monitoring Equipment
Overtime and backfill

Expenses counted as match funds toward another Federal grant program or cooperative agreement
Entertainment costs
Purchase of cell telephone(s)
Any costs disallowable or stated as ineligible in 49 Code of Federal Regulations (CFR) Part 110 Final Rule
Any cost specifically prohibited in the General Terms and Conditions of the grant award, or identified in the Special Terms and Conditions listed on the NGA (Remarks section)

Appendix B: HazMat Regions

Existing HazMat Regional Structure in New York State

Through a voluntary, inclusive process, local HazMat Teams identified 18 consolidated HazMat regions in the State outside of the City of New York. Regions were determined by local stakeholders based on geography, existing partnerships, and similar operational models. New York City, while not identified as one of the 18 existing HazMat regions within the state, is eligible to apply for HMEP funds under the HMEP Program.

