

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM



PHASE 31 ADDENDUM

TO THE

PHASE 30 MANUAL

Emergency Food and Shelter National Board Program
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Catalog of Federal Domestic Assistance (CFDA) No. 97.024

The Phase 30 EFSP Manual is being used for Phase 31 along with this Phase 31 Addendum. The Phase 31 Addendum to the Phase 30 Responsibilities and Requirements Manual contains changes from the original manual issued and published on the Emergency Food and Shelter Program (EFSP) website to guide implementation of the EFSP. This addendum must be carefully studied along with the Phase 30 EFSP Manual prior to administering the program, giving any information to the public, or making any grant award. Questions or matters of interpretation must be referred to the National Board staff.

The addendum and manual are intended for use by Local Boards and Local Recipient Organizations administering and providing services under the Emergency Food and Shelter National Board Program. The addendum and manual are not intended for individuals seeking services.

For information on other Federal programs to help homeless people, including programs funded under the McKinney-Vento Homeless Assistance Act, contact the U.S. Interagency Council on Homelessness, Federal Center SW Building 409 Third Street, SW, Suite 310, Washington, DC 20024, (202) 708-4663.

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PHASE 30 RESPONSIBILITIES AND REQUIREMENTS MANUAL

PHASE 31 ADDENDUM

The National Board of the Emergency Food and Shelter Program (EFSP) recently approved changes to the Phase 30 Responsibilities and Requirements Manual published on the EFSP website. *The Phase 30 EFSP Manual is being used for Phase 31 along with this Phase 31 Addendum.* These program changes were required for Federal grant administration purposes. The required program changes are provided in this addendum with citations to the appropriate pages in the Phase 30 Manual. Please keep these changes with your copy of the manual and ensure they are implemented for Phase 31, as required.

Page 67 - change in eligible expenditures in the administrative category.

Administrative Expenditures

Administrative costs incurred in the processing of Final Reports are allowable from the date the Final Reports are made available from the National Board until the due date of the jurisdiction's Final Report. The day the jurisdiction's Final Report is due would be the last day administrative expenditures would be considered eligible. Any administrative costs incurred after the due date would be considered ineligible.

For further detail regarding administrative expenditures, reference page 67 of the Phase 30 manual.

Pages 26, 28-29, 35 and 48 – new email address for the Department of Homeland Security Office of Inspector General (DHS/OIG) to report fraud.

Reporting Fraud, Theft and Criminal Activity

The email address to contact the Department of Homeland Security Office of the Inspector General has changed. The new email address is www.oig.dhs.gov. For further detail regarding the reporting of fraud, theft and criminal activity in the program, reference pages 26, 28-29, 35 and 48 of the Phase 30 manual.

Page 24 - New Sections - Coordination with local Continuum of Care and Participation in Coordinated Assessment System (insert following the section on Funding of LROs Serving Special Emphasis Groups). The text has been amended as follows:

Coordination with local Continuum of Care

The McKinney Vento Act of 1987, which established and authorizes the EFSP, also authorizes targeted homeless programs administered by the Department of Housing and Urban Development (HUD). HUD requires that every community receiving competitive funding under its homeless programs designate a local Continuum of Care (CoC). A CoC is an entity responsible for a wide range of planning and implementation activities related to homeless service provision. These responsibilities include the establishment of funding priorities and performance targets, adopting policies to determine and prioritize which eligible individuals and families will receive different types of housing assistance, creating a coordinated assessment process within every CoC, and collecting data on services provided and households that are served. Local Boards are encouraged to consider the activities of the CoC in their priority setting process. Continuums of Care can cover a wide range of geographic boundaries, and may or may not specifically overlap with the area covered by Local Boards. To identify a local Continuum of Care, visit <http://www.hudhre.info/index.cfm?do=viewCocMaps>.

Participation in Coordinated Assessment System

Each Continuum of Care (CoC) is required to create a coordinated assessment process within its geographic area. A coordinated assessment system provides an initial, comprehensive assessment of all individuals and families seeking

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services within a geographic region, and should be well advertised and easily accessible within each CoC. CoCs can choose from a number of coordinated assessment models including single point of access, multi-site access, no wrong door approaches, and phone based services such as a 2-1-1 Assessment Hotline. Regardless of the model, every coordinated assessment system must be designed to allow anyone who needs assistance to easily access it, to be assessed in a standard and consistent way, and to connect with the housing and services that best meet their needs. Local Boards are encouraged to participate in the planning activities for coordinated assessment in their area. Additionally, Local Boards are encouraged to participate in coordinated assessment. For more information on coordinated assessment, see <https://www.onecpd.info/news/snaps-weekly-focus-why-coordinated-assessment-is-critical-to-ending-homelessness-locally/>

Page 24 - Coordination of Service (add second paragraph) - The text has been amended as follows:

For example, one way this requirement might be met is through participation in the coordinated assessment process within the region.

Pages 39 - 53 - Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions - This section has been amended and should be replaced with the following amended section.

Pages 4 - 21 of the Phase 31 Addendum replace Pages 39 - 53 of the Phase 30 Manual for use in Phase 31.



**GRANT AGREEMENT ARTICLES
FINANCIAL TERMS AND CONDITIONS
OTHER TERMS AND CONDITIONS**

**PAGES
40 - 53**



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The Emergency Food and Shelter National Board Program (EFSP) is a restricted federal grant. All federal grants have terms and conditions that apply to ALL parties participating in the grant. For the EFSP, all parties mean the National Board which is considered the *Grantee or Recipient*, State Set-Aside Committees (SSAs), Local Boards, and Local Recipient Organizations (LROs) that are considered the *Sub-Recipients*. This section of the EFSP Responsibilities and Requirements Manual (EFSP Manual) provides guidance related to the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions of the grant. The EFSP Certification Forms for all parties contain statements that incorporate the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions. All parties must ensure their understanding of this section of the EFSP Manual and the statements on the Certification Forms being signed, as they are agreeing to specific program requirements mandated by the Federal government, including those that do not appear to apply to the types of programs and activities eligible under the EFSP. While some of the articles do not appear to be consistent with the types of programs and activities funded under the EFSP and some state recipient but not sub-recipient, all of the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions must be passed on to all parties participating in the EFSP. *All parties will be held accountable for complying with the provisions of the grant as well as full compliance with applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program including those not specifically stated in this Manual and the accompanying Phase 31 Addendum.*

Most SSAs and Local Boards do not receive funds (except administrative funds where they are considered to be an LRO and therefore a *Sub-Recipient*), these parties participating in the EFSP have responsibility for ensuring compliance in their selection of jurisdictions and/or LROs for funding and adhering to all EFSP requirements, including the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions. SSAs, Local Boards, and LROs should familiarize themselves with all of the specific citations noted in the Manual.

GRANT AGREEMENT ARTICLES

Article I *False Claims Act and Program Fraud Civil Remedies*

All recipients of financial assistance will comply with the requirements of [31 U.S.C. § 3729](#) which sets forth that no recipient of Federal payments shall submit a false claim for payment. Further, [38 U.S.C. § 3801 – 3812](#) contains administrative remedies for false claims and statements made.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. Generally, this act provides for criminal penalties if false claims are filed.

Article II *Federal Debt Status*

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs.

Article III *Fly America Act of 1974*

All recipients of financial assistance will comply with the requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 ([49 U.S.C. § 40118](#)) and the interpretative guidelines

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issued by the Comptroller General of the United States in the March 31, 1981, [amendment](#) to Comptroller General Decision B138942.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. With the exception of the administrative allowance, there are no allowable activities that can be funded regarding air travel with EFSP funds. Any necessary air travel would be limited to travel necessary for the administration of the EFSP and would not include international travel. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article IV Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, [15 U.S.C. §2225\(a\)](#), the recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, [15 U.S.C. §2225](#).

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. Should SSAs, Local Boards, or LROs conduct conferences, meetings, or trainings for EFSP using any administrative funding from the EFSP, they must comply with this requirement.

Article V Lobby Prohibitions

None of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal of any Federal contract, grant, loan, cooperative agreement. These lobbying prohibitions can be found at [31 U.S.C. § 1352](#). *See also Appendix B, Certifications and Assurances*

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Will comply with lobbying prohibition certification and disclosure of lobbying activities if receiving \$100,000 or more in EFSP funds, if applicable and the “Lobbying Prohibition and Reporting Requirements” sections in the EFSP Manual speak to this Grant Agreement Article.

Article VI Non-Supplanting Requirement

Grant funds will not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or grantees may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. EFSP is not intended to make up for budget shortfalls or to be considered a line item in an annual budget. EFSP is non-disaster, supplemental funding. The Preamble and the statement contained in the Certification Forms – “Will use funds to supplement/extend existing resources and not to substitute or reimburse ongoing programs and services” speak to this requirement.

Article VII Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended ([22 U.S.C. § 7104](#)), located at [2 CFR Part 175](#). This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a sub-recipient — (a) Engages in severe forms of trafficking in persons during the period of time that the award is in effect; (b) Procures a commercial sex act during the period of time that the award is in effect; or (c) Uses forced labor in the performance of the award or sub-awards under the award. Full text of the award term is provided at [2 CFR § 175.15](#).

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EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article VIII USA Patriot Act of 2001

All recipients of financial assistance will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends [18 U.S.C. §§ 175–175c](#). Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. “Restricted persons,” as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article IX Use of DHS Seal, Logo and Flags

All recipients of financial assistance must obtain DHS’s approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The use of any organization’s marks, including those of DHS, must be approved through proper channels. EFSP does not approve the use of the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials including those of the Federal Emergency Management Agency (FEMA) or those of any other National Board member agency. SSAs, Local Boards or LROs wishing to use any marks of any of these organizations must secure the individual agency’s permission. Bank accounts used by agencies funded under the EFSP should be set up in the individual agency’s name, not as FEMA.

Article X DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. **1.** Recipients must cooperate with any compliance review or complaint investigation conducted by DHS. **2.** Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. **3.** Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. **4.** Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. **5.** If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties. **6.** In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office. The United States has the right to seek judicial enforcement of these obligations.

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EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The Financial Terms and Conditions of the EFSP Manual speak to items 1 – 4 of this Grant Agreement Article.

Article XI Compliance with Funding Opportunity Announcement

The recipient agrees that all allocations and use of funds under this grant will be in accordance with the Funding Opportunity Announcement.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The allocation of funds to Local Boards and LROs must be in compliance with the EFSP Responsibilities and Requirements Manual (Phase 30) and the Phase 31 Addendum to the Manual. LROs must expend funds on eligible activities only and document those expenditures as required. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article XII Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including change to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GPD Call Center at (866) 927-5646 or via email to ASK-GMD@dhs.gov if you have any questions.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. Should there be changes to the award, the EFSP National Board will communicate changes (as necessary) to State Set-Aside Committees, Local Boards and LROs. Item 2 (Amendments) under Financial Terms and Conditions also speaks to this Grant Agreement Article.

Article XIII Assurances, Administrative Requirements and Cost Principles

- a. Recipients of DHS federal financial assistance must complete OMB Standard Form 424B Assurances – Non-Construction Programs. Certain assurances in this form may not be applicable to your project or program, and the awarding agency may require applicants to certify to additional assurances. Please contact the program awarding office if you have any questions.

The administrative requirements that apply to DHS award recipients originate from two sources:

- [Office of Management and Budget \(OMB\) Circular A-102](#), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the “A-102 Common Rule”). These A-102 requirements are also located within DHS regulations at [Title 44, Code of Federal Regulations \(CFR\) Part 13](#).
- [OMB Circular A-110](#), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to [2 CFR Part 215](#).

- b. The cost principles that apply to DHS award recipients through a grant or cooperative agreement originate from one of the following sources:

- [OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220](#)
- [OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225](#)
- [OMB Circular A-122, Cost Principles for Non-Profit Organizations Relocated to 2 CFR, Part 230](#)

The audit requirements for State, Local and Tribal recipients of DHS awards originate from:

- [OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statements contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” as well as

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those regarding accounting systems, audits, and other financial matters and the Financial Terms and Conditions and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article XIV Acknowledgement of Federal Funding from DHS

All recipients of financial assistance will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The use of the Sample Advertisement in the EFSP Manual complies with this Grant Agreement Article for advertising purposes only. If the Sample Advertisement is not used, the Acknowledgement of Federal Funding from DHS must be included in the advertisement made by the Local Board. Please note: this acknowledgement is not just for the advertisement.

Article XV Activities Conducted Abroad

All recipients of financial assistance will comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article XVI Best Practices for Collection and Use of Personally Identifiable Information (PII)

DHS recommends that all grantees who collect PII have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share the PII with third parties, and how individuals may have their PII corrected where appropriate. Grantees may also find as a useful resource the DHS Privacy Impact Assessments: The Privacy Office Official Guidance and in the Privacy Impact Assessment Template (available on the DHS Privacy Office website at:

- a. http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and
- b. http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. In order to meet the documentation requirements of the EFSP in certain program categories, it is necessary to obtain, retain, and provide, if requested, PII for clients served with EFSP funding. Additionally, there must be a system in place to ensure there is no duplication of service in the specific categories of rent/mortgage and utility assistance which may require the sharing of PII for this purpose. The National Board does not require and does not expect to receive PII beyond what is noted in the EFSP Documentation Requirements as stated in the Manual. Items that should not be submitted to EFSP as documentation include, but are not limited, to driver's licenses, Social Security Numbers or cards, pay stubs, etc.

Article XVII Copyright

All recipients of financial assistance will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. The recipient shall affix the applicable copyright notices of [17 U.S.C. §](#)

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[401 or 402](#) and an acknowledgement of Government sponsorship (including award number) to any work first produced under an award.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. With the exception of the administrative allowance, there are no allowable activities that can be funded regarding materials that would be copyrighted with EFSP funds. Any necessary materials for use in the EFSP would not generally be copyrighted. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Article XVIII Debarment and Suspension

[Executive Orders 12549](#) and [12689](#) provide protection against waste, fraud and abuse by debarment or suspending those persons/agencies deemed irresponsible in their dealings with the Federal government. The recipient agency must certify that they are not debarred or suspended from receiving Federal assistance. For additional information, see [2 CFR Part §3000](#). *See also Appendix B. Certifications and Assurances*

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Is not debarred or suspended from receiving Federal funds” and the Financial Terms and Conditions sections in the EFSP Manual speak to this requirement.

Article XIX Drug-Free Workplace Regulations

All recipients of financial assistance will comply with the requirements of the Drug-Free Workplace Act of 1988 ([41 U.S.C. § 701 et seq.](#)), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at [2 CFR 3001](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs.

Article XX Duplication of Benefits

There may not be a duplication of any Federal assistance by governmental entities, per [2 CFR Part §225](#), basic Guidelines Section C(c), which states: Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Authority may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements. Non-governmental entities are also subject to this prohibition per [2 CFR Parts §220 and §230](#) and [48 CFR Part §31.2](#).

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. EFSP is not intended to make up for budget shortfalls or to be considered a line item in an annual budget. EFSP is non-disaster, supplemental funding. Expenditures charged in full to the EFSP grant may not also be charged to other awards/grants; nor may expenditures paid for with EFSP funding be charged to other awards/grants. The statements contained in the Certification Forms – “Will use funds to supplement/extend existing resources and not to substitute or reimburse ongoing programs and services” and “Will expend monies only on EFSP eligible costs” as well as the Costs Eligibility sections of the EFSP Manual speak to this requirement.

FINANCIAL TERMS AND CONDITIONS

The National Board requires all participants to meet the requirements stated in this manual regarding program compliance, reporting, documentation and submission of documentation.

1) Definitions

- a) “Jurisdiction” refers to the city, county or combination receiving funds through EFSP.
- b) “Local Recipient Organization” or “LRO” refers to the local private or public agency that will receive any award of funds from the National Board.
- c) “Award” refers to the award of funds made by the National Board to a local private or public agency on the recommendation of a Local Board.
- d) “End-of-program” refers to the jurisdiction’s end date, as agreed by Local and National Board, by which all monies must be spent or returned to the National Board.
- e) “Begin Date” is the date LROs may begin expending funds.
- f) “End date” is the date by which all funds must be expended or returned to the National Board.

2) Amendments

An award may be amended at any time by a written modification. Amendments, which reflect the rights and obligations of either party, shall be executed by both the National Board and the LRO. *Administrative amendments such as changes in accounting data may be issued unilaterally by the National Board.*

3) Local Board Authority Related to Local Recipient Organizations

The Local Board is responsible for monitoring expenditures of LROs receiving EFSP funds; authorizing the adjustment of funds between EFSP funded services; and, reallocating funds from one LRO to another.

Local Boards may not alter or change National Board cost eligibility or approve expenditures outside of the National Board’s criteria without National Board permission. Local Boards may not alter or change the National Board’s documentation requirements.

A Local Board can recall an award to an LRO and reallocate to another LRO in the case of gross negligence, inadequate use of funds, failure to use funds, failure to use funds for purposes intended, for any other violation of the National Board guidelines, or in cases of critical need in the community. **The Local Board must advise, in writing, all concerned LROs of any reallocation of their original award.**

In the event the Local Board discovers ineligible expenditures by an LRO, the Local Board must send to the LRO a written request for reimbursement of the amount. The National Board must also be notified. If the LRO is unwilling or unable to reimburse the National Board for the ineligible expenditure, the Local Board must refer the matter to the National Board. The National Board may ask the Local Board to take further action to see that reimbursement of **ineligible** expenditures is made to the National Board, or the National Board may refer the matter to FEMA.

If the Local Board suspects that fraud has been committed by an LRO, the Local Board must contact the DHS/Office of Inspector General with details of the suspected fraud or misuse of Federal funds by telephone at (800 323-8603), or by writing: the U.S. Department of Homeland Security (DHS) Office of Inspector General, Attention: Office of Investigations Hotline, 245 Murray Drive SW, Building 410/Mail Stop 2600, Washington, DC 20528. Fax: 202-254-4297. See [pages 28-29](#) for more details.

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If an LRO received an award under previous phases (Public Laws 98-8, 98-151 and 98-181, 98-396, 99-88 and 99-160, 99-500 and 100-6, 100-71 and 100-120, 100-404 and 101-45, 101-100, 101-467, 102-139, 102-389, 103-124, 103-327, 104-91 and 104-134, 104-204, 105-65, 105-276, 106-74, 106-377, 107-73, 107-294 and 108-7, 108-90, 108-334, 109-90, 109-295, 110-161, 110-329 and 111-5, 111-83, 112-10 or 112-74), it must not include those funds in any reporting for the current award. Reports should be confined to the amount granted by the National Board under the new appropriations legislation (Public Law 113-6).

4) Cash Depositories

- a) Any money advanced to the LRO under the terms of this award must be deposited in a checking account in a bank with Federal Deposit Insurance Corporation (FDIC) or Federal Savings & Loan Insurance Corporation (FSLIC) insurance coverage (whose responsibility has been taken over by FDIC), and the balance exceeding the FDIC or FSLIC coverage must be collaterally secured. Interest income earned on these funds must be put back into eligible program costs, not administration.
- b) LROs are encouraged to use minority-owned banks (a bank that is owned at least 51 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority-owned banks can be obtained at the addresses below.
 - i) www.federalreserve.gov/releases/mob/current/default.htm
 - ii) www.fdic.gov/regulations/resources/minority/MDI.html

5) Retention and Custodial Requirements for Records

- a) Financial records, supporting documentation, statistical records, and all other records pertinent to the award shall be retained by the LRO for a period of three years from the end-of-program date with the following exceptions: See [Annex 13, page 86](#).
 - i) If any litigation, claim, program compliance review, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, program compliance problems, or audit findings involving the records have been resolved.
 - ii) Records for non-expendable property, if any, acquired in part with EFSP funds shall be retained for three years after submission of the final financial report (Final Report). Non-expendable property is defined as tangible property having a useful life of more than one year and an acquisition cost of more than \$300 per unit.
- b) The retention period starts from the date of the submission by the LRO of the final expenditure report (Final Report).
- c) The National Board may request transfer of certain records to its custody from the LRO when it determines that the records possess long-term retention value. The LRO shall make such transfers as requested.
- d) The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the LRO, and its sub grantees, to make audits, examinations, excerpts, and transcripts.

6) Financial Management Systems

The LRO/Fiscal Agent or Fiscal Conduit shall maintain a financial management system that provides for the following:

- a) Accurate, current and complete disclosures of the financial results of this program.
- b) Records that identify adequately the source and application of funds for federally supported activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, non-obligated balances, assets, outlays, and incomes.
- c) Effective control over and accountability for all funds, property, and other assets.
- d) Procedures for determining eligibility of costs in accordance with this manual.

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- e) Accounting records that are supported by source documentation. The LRO must maintain and retain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, canceled checks or documentation for other acceptable payment methods, sign-in logs and any other documentation that is necessary to support their costs under the program.
- f) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.
- g) In cases where more than one civil jurisdiction (e.g., a city and a balance of county, or several counties) recommends awards to the same LRO, the LRO can combine these funds in a single account. However, separate program records for each civil jurisdiction award must be kept.

7) **Audit Requirements**

If receiving \$50,000 or more in EFSP funds, the LRO will be eligible to receive the funds if it arranges for an independent audit of funds to coincide with the next scheduled annual audit of its financial affairs. If receiving \$25,000 to \$49,999 in EFSP funds, the LRO will be eligible to receive the funds if it arranges for an annual accountant's review of funds to coincide with the next scheduled annual review of its financial affairs. An original copy of this audit or review will be provided to the National Board upon request. **It is not necessary to have a separate, independent audit/review for this award so long as program funds are treated as a separate element in the LRO's regular annual audit/review.** If the LRO does not have a certified annual audit/review, that audit/review must be provided by a Local Board designated Fiscal Agent for the LRO willing to account for the funds. **The audit submitted must be from the current year or one year prior. See Annex 12, page 85.**

All EFSP funded LROs (both governmental and not-for-profit) that expend \$500,000 or more in Federal funds must comply with the [OMB Circular A-133](#), Audits of States, Local Government, and Nonprofit Organizations, which requires a single organization-wide audit. This \$500,000 could be exclusively EFSP funds or a combination of EFSP and other Federal funds that an agency might be receiving. **Note: A copy of the audit report must be forwarded to the National Board annually along with the regular audit. EFSP funds must be clearly identified by ID number in the audit/review and Schedule of Federal Awards.**

Audits of units of government shall be made annually unless the state or local government had, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. **LROs receiving funds in a single or multiple jurisdictions must identify each award individually by their LRO ID number in each jurisdiction under the Pass-Through Grantors Number on the Schedule of Expenditures of Federal Awards.**

8) **Payment**

A first payment shall be made to the LRO upon recommendation of the Local Board and approval by the National Board. Second payment requests include an interim report to be submitted and signed by each LRO. The request is also signed by the Local Board chair, and submitted to the National Board. For each LRO funded in the previous phase, second installments will be held until the jurisdiction's final Local Board report and documentation for the previous year has been reviewed and found to be compliant.

9) **Financial Reporting Requirements**

The National Board shall provide the LRO, through the Local Board, with the necessary reporting requirements in advance of report deadlines.

LROs shall submit their final report to the Local Board that will then be forwarded to the National Board approximately 45 days after the jurisdiction's program ending date or the date designated by the National Board.

10) **Closeout**

The following definitions shall apply:

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- a) “Closeout” is the process by which the National Board determines that all applicable administrative actions and all required work of the award have been completed.
- b) “Disallowed costs” are those charges that the National Board determined to be unallowable in accordance with the legislation, National Board requirements and applicable Federal cost principles or other conditions contained in the award. The applicable cost principles for Private Voluntary Organizations are contained in [OMB Circular A-122](#), “Cost Principles Applicable for Nonprofit Agencies,” and [OMB Circular A-110](#), “Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations”. The applicable cost principles for Public Organizations are contained in [OMB Circular A-87](#), “Cost Principles for State Agencies and Units of Local Governments”. If you are unsure of where to find these circulars check with your local Congressional Representative, contact the National Board staff, or visit the Office of Management and Budget’s website: www.omb.gov.

11) Suspension and Termination Procedures

The following definitions shall apply:

- a) Termination – termination of this award means the cancellation of EFSP assistance, in whole or in part, under the award at any time prior to the date of completion.
- b) Suspension – the suspension of this award is an action by the Local Board or National Board that temporarily suspends EFSP assistance under the award pending corrective action by the LRO or pending a decision by the National Board to terminate the award.
- c) Local Board Authority – authority to suspend/reallocate all or a portion of an LRO’s award at its discretion for any cause (i.e., inability to deliver services, suspected fraud, violation of eligible costs, changing need in the community, etc.).

12) Lobbying

Pursuant to [31 U.S.C. §1352](#), an LRO is prohibited from using federally appropriated grant funds for lobbying activities. This condition bars the use of Federal money for political activities, but does not in any way restrict lobbying or political activities paid for with non-Federal funds. This condition prohibits the use of Federal grant funds for the following activities:

- Federal, state or local electioneering and support of such entities as campaign organizations and political action committees;
- Direct lobbying of the Congress and State Legislatures to influence legislation;
- Grassroots lobbying concerning either Federal or state legislation;
- Lobbying of the Executive Branch in connection with decisions to sign or veto enrolled legislation; and,
- Efforts to utilize state or local officials to lobby the Congressional or State Legislatures.

Any LRO that will receive more than \$100,000 in EFSP funds is required to submit:

- a certification form that EFSP funds will not be used for lobbying activities; and,
- a disclosure of lobbying activities (if applicable).

This certification and disclosure must be submitted prior to grant payment. See [Annex 5, page 77](#) for certification and disclosure forms.

13) Debarment and Suspension Regarding Funding

Pursuant to Executive Order 12549, Debarment and Suspension, all LROs, including Fiscal Agents, Fiscal Conduits, and agencies benefiting from EFSP funding under the Fiscal Conduit, must certify that they have not been debarred or suspended from receiving funds from or doing business with the Federal government. Each LRO will make this certification by signing the LRO certification form which states the requirement. Each Local Board must certify they have received from the LRO Certification Form from the LRO which state the requirements. Additionally, the Local Board will return each LRO Certification Form with the Local Board Plan.

**OTHER TERMS AND
CONDITIONS**

Age Discrimination Act of 1975

All recipients of financial assistance will comply with the requirements of the Age Discrimination Act of 1975 ([42 U.S.C. § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Americans with Disabilities Act of 1990

All recipients of financial assistance will comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities ([42 U.S.C. §§ 12101–12213](#)).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Civil Rights Act of 1964

All recipients of financial assistance will comply with the requirements of Title VI of the Civil Rights Act of 1964 ([42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Civil Rights Act of 1968

All recipients of financial assistance will comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex ([42 U.S.C. § 3601 et seq.](#)), as implemented by the Department of Housing and Urban Development at [24 CFR Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see [24 CFR § 100.201](#)).

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EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Title IX of the Education Amendments of 1972

All recipients of financial assistance will comply with the requirements of Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at [44 CFR Part 19](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Limited English Proficiency

All recipients of financial assistance will comply with the requirements of [Executive Order 13166](#), Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, recipients must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding LEP obligations, go to <http://www.lep.gov>.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in this Manual speak to this Grant Agreement Article.

Rehabilitation Act of 1973

All recipients of financial assistance will comply with the requirements of Section 504 of the Rehabilitation Act of 1973, [29 U.S.C. § 794](#), as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

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Other Discrimination Requirements

Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to those noted specifically in this Manual and Addendum for Phase 31 including: the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 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; §§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; any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, the requirements of any other nondiscrimination statute(s) which may apply to the application.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Practices non-discrimination [those agencies with a religious affiliation must agree not to refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling with Federal funds]” and the Client Eligibility sections in the EFSP Manual speak to this Grant Agreement Article.

Animal Welfare Act of 1966

All recipients of financial assistance will comply with the requirements of the Animal Welfare Act, as amended ([7 U.S.C. § 2131 et seq.](#)), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. There are no allowable activities that can be funded regarding animals with EFSP funds. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Clean Air Act of 1970 and Clean Water Act of 1977

All recipients of financial assistance will comply with the requirements of [42 U.S.C. § 7401 et seq.](#) and [Executive Order 11738](#), which provides for the protection and enhancement of the quality of the nation’s air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation’s waters is considered research for other purposes.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Coastal Wetlands Planning, Protection, and Restoration Act of 1990

All recipients of financial assistance will comply with the requirements of [Executive Order 11990](#), which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA ([42 U.S.C. § 4331\(b\)\(3\)](#)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic,

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environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at [44 CFR Part 9](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Flood Disaster Protection Act of 1973

All recipients of financial assistance will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended ([42 U.S.C. § 4001 et seq.](#)), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Lead-Based Paint Poisoning Prevention Act

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.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

National Environmental Policy Act (NEPA) of 1969

All recipients of financial assistance will comply with the requirements of the *National Environmental Policy Act (NEPA)*, as amended, [42 U.S.C. § 4331 et seq.](#), which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

National Flood Insurance Act of 1968

All recipients of financial assistance will comply with the requirements of [Section 1306\(c\) of the National Flood Insurance Act](#), as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to

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imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at [44 CFR Part 63](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Other Environmental Standards

Will comply with the environmental standards which may be prescribed pursuant to the following: notification of violating facilities pursuant to [EO 11738](#); 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.](#)); and, protection of endangered species under the Endangered Species Act of 1973, as amended ([P.L. 93-205](#)).

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

Wild and Scenic Rivers Act of 1968.

Will comply with the Wild and Scenic Rivers Act of 1968 ([U.S.C. §§1271 et seq.](#)) related to protecting components or potential components of the national wild and scenic rivers system.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

Protection of Human Subjects

All recipients of financial assistance will comply with the requirements of the Federal regulations at [45 CFR Part 46](#), which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. For purposes of [45 CFR Part 46](#), research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates ([Subpart B](#)); prisoners ([Subpart C](#)); and children ([Subpart D](#)). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by [45 CFR Part 46](#).

EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. The statement contained in the Certification Forms – “Will expend monies only on EFSP eligible costs” and the Costs Eligibility sections of the EFSP Manual speak to this Grant Agreement Article.

Hatch Act

The Hatch Act restricts the political activity of individuals principally employed by state or local executive agencies and who work in connection with programs financed in whole or in part by Federal loans or grants. All recipients of financial assistance will comply with the regulations, as applicable, to States and Local Governments, of the Hatch Act, [5 U.S.C. § 1501 – 1508](#), as amended.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs (both governmental and non-profit). These entities are responsible for determining the applicability of this

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requirement to the employees of their agency/organization as this requirement is fact-dependent and needs to be compared to the work of the individual employee.

Intergovernmental Personnel Act of 1970

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 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](#)).

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

National Historic Preservation Act

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 ([U.S.C. §§469a-1 et seq.](#))

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

Safety Standards, Kickbacks, and Wages

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.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.

Uniform Relocation Assistance and Real Property Acquisition

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.

EFSP Applicability: This applies to all State Set-Aside Committees, Local Boards and LROs. These entities are responsible for determining the applicability of this requirement to their agency/organization.