

Local Recipient Organization (LRO) Responsibilities



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 means the National Board which is considered the Recipient, State Set-Aside Committees (SSAs), Local Boards, and Local Recipient Organizations (LROs) that are considered the Sub-Recipients. See Grant Agreement Articles, Financial Terms and Conditions and Other Terms and Conditions, pages 45-62 for additional requirements.



The National Board assigns each jurisdiction a unique ID number for the program as well as numbers for each LRO, whether new or previously funded. When contacting the National Board for assistance regarding this program, please reference your 9-digit LRO ID number, which is your Local Board's ID number plus your LRO number (example: 1234-56-789).

Criteria for LROs

For a local agency to be eligible for funding it must:

- Be nonprofit or an agency of government;
- Not be debarred or suspended from receiving Federal funding;
- Have a checking account and sign up for EFT (cash payments are not allowed);
- Have an accounting system or fiscal agent approved by the Local Board;
- Have a Federal Employer Identification Number (FEIN);
- Have a Data Universal Number System (DUNS) number issued by Dun & Bradstreet (D&B) and provide along with other required associated information;
- Have a valid email address for program communication and electronic signature processes;
- Conduct an independent annual audit if receiving \$100,000 or more in EFSP funds; conduct an annual accountant's review if receiving \$50,000 to \$99,999 in EFSP funds. See Annex 12, page 103.
- Conduct annual audit, if expending \$750,000 or more in Federal funds, in compliance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 of the Office of Management and Budget (Uniform Guidance);
- Be providing services and using its other resources in the area in which they are seeking funding;
- Practice nondiscrimination (those agencies with a religious affiliation wishing to participate in the program must not refuse services to an applicant based on religion or require attendance at religious services as a condition of assistance, nor will such groups engage in any religious proselytizing in any program receiving EFSP funds;
- Have a voluntary board if private, not-for-profit; and,
- To the extent practicable, involve homeless individuals and families, through employment, volunteer programs, etc., in providing emergency food and shelter services.

Keeping contact information up to date is critical for EFSP communication and DocuSign procedures.

Contact your local IRS office for more information on securing a FEIN and the necessary form [SS-4] or go to the website: www.irs.gov.

*DUNS numbers alone are not sufficient for EFSP purposes and neither Local Boards nor LROs can enter this information on the EFSP website. DUNS numbers and associated information are **required** for all LROs receiving funds in the EFSP. The DUNS information form and instructions are posted under the Local Board and LRO section of the EFSP website. This form (third page under the DUNS tab) must be completed accurately and emailed to documentstoefsp@www.unitedway.org or faxed to 703-706-9677. Simply providing the DUNS number alone does not fulfill the EFSP's requirements; the form must be completed in its entirety.*



Each award Phase, each LRO must certify to the Local Board by signing the LRO Certification Form for the specific Phase and forwarding it to the Local Board that they have read, understand and agree to abide by the EFSP Responsibilities and Requirements Manual including the LRO Responsibilities section, Financial Terms and Conditions, Program Costs (eligible and ineligible), and Required Documentation. See Annex 3, page 93.

If after reading, electronically signing and submitting the LRO Certification Form, the agency determines that it cannot or can no longer abide by the National Board or Federal requirements, they must notify their Local Board immediately. If funds have already been received, they must be returned in their entirety and no expenses may be incurred or charged against the grant.

The Local Board will receive a copy of the electronically signed LRO Certification Form for each funded LRO in the jurisdiction's Board Plan submitted to the National Board.

The LRO Certification Form will be sent through DocuSign to the contact email of record for the funded LRO once the Local Board Plan has been submitted. The completed LRO Certification form will be emailed to the LRO and is available on the EFSP website under LRO Plan.

Keeping contact information up to date is critical for EFSP communication and DocuSign procedures.

LRO Documentation and Disaster Recovery Plan

LROs should have a disaster recovery plan that ensures continuity of eligible services and records retention under the EFSP. Each LRO is required to retain EFSP records for a period of three years from the submission of the Final Report. Records that should be retained include LRO application and approval of application from Local Board, signed LRO Certification form, documentation of any reallocations approved by the Local Board, completed Interim Report/Second Payment Request form, program exceptions granted by the National Board, and all expenditure documentation for expenses charged to the EFSP. **LROs also need to retain documentation regarding all compliance problems including those outside the retention period until the problem is resolved.** Specific information on documentation is provided in the Program Costs (eligible and ineligible) section of this manual. The U.S. Department of Homeland Security's website contains business continuity information which may be helpful to LROs. www.ready.gov/business.

Reference Item 5, page 53 and Annex 13, page 105-106.

LRO/Vendor Relationships



An LRO may not operate as a vendor for itself or other LROs. Purchases may not be made from or payments made to other LROs except for the shared maintenance fee of food banks.

LRO Requirements

Local agencies selected for funding must adhere to the following 14 requirements:

Knowledge of Requirements

1. LROs must maintain records according to guidelines set forth in this manual. Consult your Local Board chair/staff on matters requiring interpretation or clarification **prior to** incurring an expense or entering into a contract. **It is important to have a thorough understanding of these guidelines to avoid ineligible expenditures and consequent repayment of funds.** See pages 65-74 for

*A webinar detailing the process for submitting LRO Certifications is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

eligible and ineligible program costs. Questions that LROs have should be directed first to Local Board chairs or staff. National Board staff must be contacted by the Local Board chairs or staff to answer those questions that cannot be answered locally.

Use of Funds

2. LROs must provide services within the intent of the program. Funds are to be used on an ongoing basis to supplement and extend food and shelter services, not as a substitute for other program funds or to start new programs. Funds are not to be held or reserved for future use but spent on an as needed basis to supplement and extend existing services. Agencies must have a program in the category for which they are seeking funding. All funds awarded to an LRO must provide for services within the jurisdiction's spending period. See pages 65-74 for eligible and ineligible program costs.

*A webinar providing background on eligible and ineligible expenditures is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

Bank Accounts/Interest Income

3. LROs must maintain a checking account in the **LRO's name** in a federally insured bank into which EFSP funds are deposited. (Bank accounts must not be set up with FEMA, EFSP or in the name of the LRO's program.) The National Board does not require funds to be placed in a separate bank account. LROs are required to notify the National Board in writing of any changes in their bank account for EFT purposes. This includes changes such as the closure of bank accounts, opening new bank accounts, and mergers of financial institutions. ***LROs funded in multiple jurisdictions must provide bank account changes for each jurisdiction individually even if funds are deposited into the same account.*** The EFT authorization form must be used for initial sign-ups and any changes. Local Boards and LROs may also contact the National Board staff for the preprinted authorization form. Copies, faxes, or emails cannot be accepted for EFT processing. For EFT processing, an original LRO voided blank check and form are accepted by mail only by the deadline established by the National Board (mail to: United Way Worldwide/Emergency Food and Shelter Program 701 North Fairfax Street, Alexandria, VA 22314.) **EFT ENROLLMENTS CANNOT BE ACCEPTED IN ANY OTHER FORMAT.** Failure to notify the National Board of bank account changes will delay the receipt of funds.

*To add/update EFT information, the LRO must log into the EFSP website. On the left-hand menu, there is an option for EFT, where you will find the appropriate form and instructions. This form is specific to each LRO and cannot be generated by the Local Board. There is a webinar with detailed instructions on how to set up an EFT on the EFSP website under **Trainings Workshops** on the left-hand menu after you login.*

LROs must maintain proper documentation for all expenditures under this program according to the guidelines. Any interest income must be used for eligible program expenditures, not administrative expenses. If EFSP funds are placed in an interest-earning account with other LRO funds, interest must be prorated/calculated for the EFSP grant.

LROs that have unspent funds of \$5.00 or more must return the entire unspent amount to the National Board. (Do not send back unspent funds of \$4.99 or less). Checks for funds being returned to the National Board must be made payable to United Way Worldwide/Emergency Food and Shelter Program. The LRO ID number of the agency returning the funds must be printed on the face of the check in the upper right-hand corner.

LROs' expenditures and documentation will be subject to review for program compliance by the Local Board, National Board, the National Board's public accounting firm, DHS/FEMA or the Office of the Inspector

General. Maintain records for a three-year period after phase end unless there is an outstanding compliance problem. (See pages 80-81).

Payment to Vendors

4. LROs must pay for all eligible program expenses by an approved method of payment. Approved payment methods are:

- LRO check,
- LRO debit card,
- LRO credit card—vendor issued (i.e., Sam’s Club, other stores—vendor issued credit card),
- LRO credit card—third party (i.e., American Express, Visa),
- Electronic payment from LRO’s bank account.

*A webinar providing background on eligible and ineligible expenditures is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

This program does not allow the reimbursement of staff/volunteers, other LROs or any party other than the vendor of services. **Cash payments are ineligible. The use of personal debit cards or credit cards is not allowed.**



A Fiscal Agent/Fiscal Conduit must pay the vendor directly with an approved method of payment and may not reimburse other agencies for which they are serving as the Fiscal Agent/Fiscal Conduit.

LRO Reporting

5. LROs must submit reports to the Local Board by their due dates.

The National Board will make interim report/second payment requests available to each LRO after the first payment notification. When the LRO is ready to request its second payment it must be submitted via the website. The LRO will then electronically sign the Interim Report/Second Payment Request Form generated by DocuSign. Then the Local Board will approve and electronically sign the Interim Report/Second Payment Request Form through the DocuSign process. Local Boards must electronically sign the Interim Report/Second Payment Request by the established deadline. **Only electronic signatures created through the DocuSign process provided by the National Board will be accepted.**

*A webinar detailing the process for submitting an Interim Report/Second Payment Request is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*



LROs should retain a copy of their Interim Report/Second Payment Request form and should not wait until their first payment has been exhausted before making the request.

Second payments will be made to eligible LROs once the jurisdiction's compliance review of the previous phase is completed and any compliance problems resolved in any jurisdiction in which an LRO has received funds. Compliance resolution after the end of the funded phase does not guarantee that any remaining award will be forthcoming. Notice of second payments will be made to Local Boards and LROs, via email, only upon the submission of each LRO’s Interim Report/Second Payment Request Form.

The Interim Report/Second Payment Request submission is a two-step process. After the LRO(s) complete the form online, they will need to electronically sign the Interim Report/Second Payment Request generated by DocuSign. The Local Board chair will approve the request by electronically signing the Interim

Report/Second Payment Request Form once assured the LRO is implementing the program as intended and according to EFSP guidelines or other requirements established by the Local Board. The LRO must report on the first payment by indicating how the funds were spent to date in the categories. If funds were unspent, they must be entered in the unspent category on the form. The Interim Report/Second Payment Request must balance to the total of the first payment issued to the agency.

The National Board will advise Local Boards and LROs of the deadline to request all second payments under Phase 35 as part of the Key Dates document. Second payments will be held until all compliance exceptions (if any) are satisfied by the LRO. LROs with unresolved compliance exceptions **will not be paid.**

Final Report

6. All LROs must complete the Final Report through the web submission process. After the web submission is completed, a copy of the LRO Final Report will be sent to the LRO Contact via email to e-sign. Once the LRO Final Report has been e-signed by the LRO, it will be

sent to the Local Board Contact to approve and e-sign. A copy of the LRO Final Report should be sent to the Local Board, along with the required spreadsheets, and one copy of documentation, if requested. A copy of the e-signed LRO Final Report, spreadsheets and documentation must be retained by the LRO for their records. Complete, accurate, legible documentation must be submitted and must support the expenditures claimed in each category on the initial Final Report. The final LRO report is due to the Local Board 30 days after the jurisdiction's end-of-program date. LROs receiving Phase 35 awards from more than one jurisdiction must keep and submit documentation separately for each when requested.

LROs receiving SSA awards in addition to a regular award or reallocation funds in a single jurisdiction must consider all the awards as though they were one and combine the documentation

Program Compliance Resolution

7. LROs must work with the Local Board to **quickly clear up** any problems related to compliance exception(s) at the end of the program.

The National Board requires that all LROs maintain expenditure and proof of payment documentation as expenses are incurred. It is expected that when documentation is submitted with Final Reports or reviewed under other circumstances, that it is complete and accurate initially when reviewed the first time. The National Board will notify Local Boards and LROs of problems should the documentation contain errors.

Keeping contact information up to date is critical for EFSP communication and DocuSign procedures. Interim Reports/ Second Payment Requests will not be able to be completed without an accurate email address on file.

*A webinar detailing the process for submitting a Final Report is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

*A webinar providing background on eligible and ineligible expenditures is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

Failure of an LRO to comply with the National Board's reporting requirements will result in future funds being withheld. The National Board will hold funds until all reporting requirements have been satisfied. If an LRO does not comply in a timely manner to compliance issues, the Local Board or National Board may reclaim and reallocate the funds being withheld.

*A webinar providing background on common compliance issues is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*



Any LRO, including those serving as a Fiscal Agent/Fiscal Conduit, receiving funds in multiple jurisdictions with a compliance exception in any single jurisdiction from any prior phase will be subject to all funds being withheld. That is, all funds allocated to that LRO from all jurisdictions will be withheld until all problems have been resolved. Funding is not guaranteed when compliance problems have been identified, even if resolved.

Documentation Retention

LROs are to keep their documentation records for three years after each end of program year. Documentation includes but is not limited to: LRO Certification form, application for funding, Local Board approval of funding, Second Payment Request/Interim Report, Final Report, spreadsheets, all expenditure documentation (vendor invoices/receipts and proof of payment).

Since Documentation must be retained for three years, all of those years are subject to review/audits at any time, even if the LRO has filed Final Reports and received clearing letters.

Lobbying Prohibition and Reporting Requirements

8. LROs must comply with lobbying requirements. Lobbying is not permitted with EFSP funds. **Any LRO receiving more than \$100,000 in EFSP funds is required to submit:**

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

See Annex 5, page 95 for the certification and disclosure form. This form may be printed from the EFSP manual or website. These forms must be submitted prior to payment of funds.

*A webinar detailing the process for submitting Certification Forms is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

Annual Audit Requirement

9. LROs must comply with audit requirements. For LROs receiving \$100,000 or more in EFSP funding, the National Board requires an independent annual audit in accordance with Government Auditing Standards. For LROs receiving from \$50,000 to \$99,999, the National Board requires an annual accountant's review. For newly funded LROs or LROs funded above the amount requiring an audit or review for the first time, the LRO will be eligible to receive funds if it arranges for the audit or review of funds to coincide with the next scheduled annual audit or annual review of its financial affairs. See Annexes 12-13, pages 103-106.

*A webinar providing background on audit requirements is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

The National Board will accept an LRO's national/regional annual audit if the following conditions are met:

- LRO is truly a subsidiary of the national organization (i.e., shares a single Federal tax exemption).

- The LRO is audited by the national/regional office internal auditors or other person designated by the national/regional office AND the national/regional office is audited by an independent certified public accountant or public accountant or accounting firm, which includes the national/regional organization's review of the LRO in a larger audit review.
- A copy of the local audit review along with a copy of the independent audit of the national/regional office will be made available to the National Board upon request.

Uniform Guidance of the Office of Management & Budget

10. Any agency expending \$750,000 or more in Federal funds must comply with the **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200** of the Office of Management and Budget (Uniform Guidance) Item 7, page 54.



A copy of this report must be forwarded to the National Board annually along with the regular audit.

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.**

Audit Confirmation Request

11. LROs requesting audit confirmations of funds received for their external auditors must submit a written request emailed to documentstoefsp@uww.unitedway.org or faxed to 703-706-9677. The request must indicate the LRO ID numbers (9-digits) for each jurisdiction for which a confirmation is needed.

Technical Assistance

12. LRO should contact the Local Board first regarding technical assistance, interpretation of guidelines and resources from other Federal programs as Local Boards are responsible for providing training and technical assistance to LROs.



The EFSP website (www.efsp.unitedway.org) has a training feature for Local Boards and LROs to familiarize new staff with EFSP requirements under **Training Workshops**. FEMA's Emergency Management Institute also provides a training opportunity through the following link: (<http://www.training.fema.gov/emiweb/IS/IS420.asp>).

Reallocation of Funds

13. LRO must cooperate and comply with Local Board reallocation decisions. Local Boards may reallocate funds at their discretion during the current phase. Reference the Local Board section, pages 33-34.

*A webinar detailing the process for submitting Reallocation is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

Fiscal Agent/Fiscal Conduit

14. For National Board purposes, a Fiscal Agent is a LRO that maintains all EFSP financial records for another agency under a single grant. A Fiscal Conduit is a LRO that maintains all EFSP financial records on behalf of two or more other agencies under a single grant.

If anyone LRO in a jurisdiction is making bulk purchases for other agencies not funded directly, it must serve as a Fiscal Conduit and follow all rules noted in this section.

The Fiscal Agent/Fiscal Conduit is the LRO responsible for the receipt of funds, disbursement of funds to vendors, documentation of funds received and maintenance of documentation. The Fiscal Agent/Fiscal Conduit must meet all requirements of a LRO. Only the Fiscal Agent/Fiscal Conduit may pay the vendors, and cannot reimburse other agencies for which they are serving as their Fiscal Agent/Fiscal Conduit.

Local Boards may wish to use a Fiscal Agent/Fiscal Conduit when they desire to fund an agency that does not have an adequate accounting system but still meets all other criteria. The Fiscal Agent/Fiscal Conduit arrangement must be determined and arranged prior to funding decisions. Fiscal Agents/Fiscal Conduits will be held accountable for compliance with program requirements. Any agency being supported through a fiscal agent/fiscal conduit must have its own Federal Employee Identification Number (FEIN). (This IRS form [SS-4] may be obtained on the IRS website, www.irs.gov.) Agencies funded under a Fiscal Agent/Fiscal Conduit must also have or obtain a Data Universal Number System (DUNS) number issued by Dun & Bradstreet (D&B). (This form and instructions may be obtained from the EFSP website.) The DUNS number and other relevant information must be provided on the form.

Fiscal Agent/Fiscal Conduit Payments

Fiscal Agents/Fiscal Conduits must issue their payments for LRO expenditures to vendors only by an approved method of payment; may not reimburse other agencies for which they are serving as their Fiscal Agent/Fiscal Conduit, or to agencies/sites under their 'umbrella'. The exception to this is when an LRO is using the per diem allowance for mass shelter or the per meal allowance for served meals.

Benefitting Agency/Sub Grantee

Any agency benefitting from funds received by a Fiscal Agent/Fiscal Conduit must meet all criteria to be a LRO except the accounting system and annual audit requirements and must sign the Fiscal Agent/Fiscal Conduit Relationship Certification form. See Annex 4, page 94. **For tracking purposes, all agencies funded through Fiscal Agents or Fiscal Conduits must provide an FEIN number and a DUNS number.**

Grant Agreement Articles



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 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 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.***

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 specific citations noted in the Manual.

Article I - DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must 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 reviews or compliance investigations 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 federal financial assistance award 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, recipients have been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex, age, disability, religion, or familial status, recipients must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS FAO and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at crcl@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
6. In the event courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the

DHS FAO and the CRCL office by e-mail or mail at the addresses listed above. The United States has the right to seek judicial enforcement of these obligations.



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 II - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. Section 2409, U.S.C. Section 4712, 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.



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 article speaks to employees and contractors with the Department of Defense and disallowed costs with funding. 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 III - Use of DHS Seal, Logo and Flags

All recipients must obtain permission from their DHS FAO, 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 the 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 IV - USA Patriot Act of 2001

All recipients must comply with 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. sections 175-175c.



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 V - Universal Identifier and System of Award Management (SAM)

All recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference in the terms and conditions.



***EFSP Applicability:** SAMS registration in this article applies to the recipient, the EFSP National Board. The EFSP is registered in the SAMS system. Any necessary updates to EFSP information in the system will be made yearly.*

The unique identifier statement apply to all State Set-Aside Committees, Local Boards and LROs. All funded LROs are required to provide their DUNS number to EFSP before payments can be released. The statement contained in the Certification Forms – “Has provided a Data Universal Number System (DUNS) number issued by Dun & Bradstreet (D&B) and required associated information to EFSP” speak to this Grant Agreement Article.

Article VI - Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.



***EFSP Applicability:** The reporting in this article applies to the recipient, the EFSP National Board. The EFSP is registered in the SAMS system. Any necessary updates to EFSP information in the system or required reporting related to the grant will be made appropriately.*

Article VII - Rehabilitation Act of 1973

All recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794, as amended, which provides that no otherwise qualified handicapped individuals 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.



***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.*

Article VIII - Trafficking Victims Protection Act of 2000

All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000, (TVPA) as amended by 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference in the award terms and conditions.



***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 - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681 et seq.), which provide 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. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. 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.*

Article X - Terrorist Financing

All recipients must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

✓ *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 XI - SAFECOM

All recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

✓ *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 communication equipment. 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 - Procurement of Recovered Materials

All recipients must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

✓ *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 XIII - Notice of Funding Opportunity Requirements

All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.



***EFSP Applicability:** The requirements stated in this article applies to the recipient, the EFSP National Board. The NOFO and guidance is made available to the National Board via the ND Grants System. All terms and conditions of the award are agreed to when the National Board accepts the award in the ND Grants System.*

Article XIV - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. section 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.



***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 would be patented with EFSP funds. Any necessary materials for use in the EFSP would not generally be patented. 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 XV - Non-supplanting Requirement

All recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.



***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 XVI - Lobbying Prohibitions

All recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under an federal financial assistance 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.



***EFSP Applicability:** This article applies to all State Set-Aside Committees, Local Boards and LROs. The statement contained in the Certification Forms – “Will not use EFSP funding for any lobbying activities and if receiving \$100,000, or more, will provide the “Certification Regarding Lobbying” and, if applicable, will complete Standard Form LLL, “Disclosure Form to Report Lobbying”, in advance with its instructions. The “Lobbying Prohibition and Reporting Requirements” sections in the EFSP Manual also speak to this Grant Agreement Article.*

Article XVII - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <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 the EFSP Manual speak to this Grant Agreement Article.

Article XVIII - 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. section 2225a, all recipients must 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, as amended, 15 U.S.C. section 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 XIX - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 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. section 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B-138942.



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 XX - Federal Leadership on Reducing Text Messaging while Driving

All recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.



EFSP Applicability: This article applies to the EFSP National Board as the recipient, all State Set-Aside Committees, Local Boards and LROs as subrecipients of funds.

Article XXI - 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.)



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

Article XXII - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. section 3729 - 3733 which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. section 3801-3812 which details the administrative remedies for false claims and statements made.)



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

Article XXIII - Reporting Subawards and Executive Compensation

All recipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.



EFSP Applicability: This article applies to the Grantee (National Board) and all State Set-Aside Committees, Local Boards and LROs. As information received from State Set-Aside Committees, Local Boards and LROs are necessary components of the required reports, the statements contained in the Certification Forms regarding the DUNS number, Federal Employer Identification Number (FEIN), and reporting requirements also speak to this Grant Agreement Article.

Article XXIV - Energy Policy and Conservation Act

All recipients must comply with the requirements of 42 U.S.C. section 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.



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 supplies and equipment purchases, up to \$300 per item, and emergency rehabilitation costs/building code citations for mass shelter and mass feeding sites, there are no allowable activities that can be funded 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.

Article XXV - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by

federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

✓ 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.*

Article XXVI - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. section 8101 et seq.), which requires all organizations receiving grants from any federal agency agree to maintain a drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 3001, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 8101-8107).

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

Article XXVII - Debarment and Suspension

All recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

✓ 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 XXVIII - Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

✓ 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 XXIX - Civil Rights Act of 1968

All recipients must 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. section 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. 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 C.F.R. section 100.201.)



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.

Article XXX - Civil Rights Act of 1964 - Title VI

All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 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. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.



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.

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

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publicly-available privacy policy that describes standards on the usage and maintenance of PII they collect. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.



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 XXXII - Americans with Disabilities Act of 1990

All recipients must 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. sections 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.*

Article XXXIII - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. Code, section 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.*

Article XXXIV - Activities Conducted Abroad

All recipients must ensure 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 XXXV - Acknowledgment of Federal Funding from DHS

All recipients must acknowledge their use of 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 XXXVI - Assurances, Administrative Requirements, Cost Principles, and Audit Requirements

DHS financial assistance recipients must complete either the OMB Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the financial assistance office if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.



***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 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 XXXVII - 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 changes 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/GMD Call Center at (866) 927-5646 or via e-mail 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 XXXVIII - Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. Section 200.308. For awards with an approved budget greater than \$150,000, you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.



***EFSP Applicability:** This article applies to the EFSP National Board. The budget submitted with the application in the ND Grant system generally remains the same. The scope and purpose of the program does not change, the guidelines are detailed in the EFSP Manual.*

Article XXXIX - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.



***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. LROs may use up to \$300 to purchase eligible equipment with EFSP funds and would generally fall beneath the \$5,000 threshold. 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 XL - National Environmental Policy Act

All recipients must comply with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires

recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.



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.

Article XLI - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. All recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.



EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. EFSP guidelines prohibits discrimination based on age, race, sex, religion, national origin, disability, economic status or sexual orientation.

Article XLII - Buy American and Hire American

All recipients are required to comply with any applicable provisions of the Buy American Act (41 U.S.C. Sections 8301 through 8305), and any other applicable statutes, regulations, or rules that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States.



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.

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. The OIG's preferred method for reporting fraud is to submit their online allegation form from their website www.oig.dhs.gov. The address for mailing information is DHS Office of Inspector General/MAIL STOP 0305, Attention: Office of Integrity & Quality Oversight – Hotline, Murray Lane SW, Washington, DC 20528-0305. See [pages 34-35](#) for more details.

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, 112-74, 113-6 or 113-76), 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 114-4).

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 105-106.
 - 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.

- 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 \$100,000 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 \$50,000 to \$99,999 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

*A webinar providing background on audit requirements is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

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 103.**

All EFSP funded LROs (both governmental and not-for-profit) that expend \$750,000 or more in Federal funds must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 of the Office of Management and Budget (Uniform Guidance), Audits of States, Local Government, and Nonprofit Organizations, which requires a single organization-wide audit. This \$750,000 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:

- 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 are contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 of the Office of Management and Budget (Uniform Guidance.) If you are unsure of where to find this circular 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:

*A webinar detailing the process for submitting Certification Forms is available on the EFSP website under **Training Workshops** on the left-hand menu after you login.*

- 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 95 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 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

Duplication of Benefits

There may not be a duplication of any Federal assistance by governmental entities, per 2 CFR Part §225 (Uniform Guidance), 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 (Uniform Guidance.)

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.

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 or 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 supplemental (non-disaster) 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.

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 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.

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

Debarment and Suspension

Executive Orders 12549 and 12689 provide protection against waste, fraud and abuse by debarring 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 (Uniform Guidance.) *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.

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.

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

DHS recommends that all grantees who collect PII have a publicly-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 the Privacy Impact Assessment Template (available on the DHS Privacy Office website at:

http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and

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.