

NOTICE OF SUBRECIPIENT GRANT AWARD

GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT

Program Title: FY 2009 Emergency Management Performance Grant (EMPG)

DHS Instrument Number: 2009-EP-E9-0005

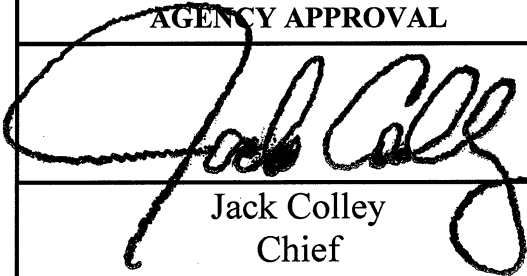
GDEM Grant Number: 09TX-EMPG-0082

Administered By: Governor's Division of Emergency Management
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0220

Recipient: Collin County
2300 Bloomdale Rd., Suite 4192
McKinney, Texas 75071

Amount of Grant: \$ 30,000

Period of Grant: October 1, 2008, to September 30, 2009

AGENCY APPROVAL	GRANT ACCEPTANCE
	 Original Signature Required
Jack Colley Chief	Printed Name/Title: Keith A. Self County Judge
Date: October 15, 2009	Date: 11/13/09

Return Signed Copy of This Page within 45 days to:
Governor's Division of Emergency Management
Attention: Rex Ogle, Preparedness Section
PO Box 4087
Austin, TX 78773-0220



TEXAS DIVISION OF EMERGENCY MANAGEMENT
TEXAS DEPARTMENT OF PUBLIC SAFETY

WWW.TXDPS.STATE.TX.US/DEM

ASSISTANT DIRECTOR / CHIEF
JACK COLLEY

October 28, 2009

The Honorable Keith Self
Collin County Judge
2300 Bloomdale Rd., Suite 4192
McKinney, Texas 75071

Dear Judge Self:

This letter is to advise you that your application to participate in the Emergency Management Performance Grant (EMPG) program during Fiscal Year 2009 (FY 09) has been accepted.

1. Grant Award

The Notice of Sub-recipient Grant Award (Attachment 1) specifies the federal EMPG program funding that will be provided during FY 09.

An individual authorized by your City Council to accept grants on behalf of the jurisdiction, typically the Mayor or City Manager, must sign the award and return it to the Division *within 45 days* to activate your grant. Retain a copy for your records and provide a copy of the entire grant award package to your local financial manager.

2. Required EMPG Tasks

Your FY 09 EMPG Program Application has been approved. As changes to this document may have been made in order to meet FY 09 program requirements since originally submitted, you should carefully review the attached copy.

The process for documenting exercise participation has not changed. All EMPG participants must prepare and submit an After Action Report (AAR) and Improvement Plan (IP), in the format prescribed by the DHS Homeland Security Exercise Evaluation Program (HSEEP). The HSEEP document can be accessed at <http://www.ojp.usdoj/odp/exercises.htm>. A sample AAR and IP is located on our website at <http://www.txdps.state.tx.us/dem>.

The Department of Homeland Security has identified steps that States, territories, tribal, and local entities should take during FY 09 to remain compliant with the NIMS. All jurisdictions awarded FY 09 EMPG funds must achieve and maintain 100% compliance with NIMSCAST objectives and metrics.

Participate in the Texas Regional Response Network (TRRN) by registering as a user and identifying resources that jurisdiction(s) participating in the local emergency management program are prepared to make available to other jurisdictions through mutual aid.

As indicated in the FY 2009 EMPG Guidance, grant recipients must apply no less than 25 percent of their grant award toward planning activities. The *Staffing Commitment Certification* should be submitted semi-annually with each Progress Report

3. Task Progress & Reporting

Continued participation in the EMPG program is in part conditioned on making proportional progress on your Work Plan tasks and the timely submission of progress and financial reports.

Proportional Progress in Program Tasks. You are expected to complete and document a portion of those tasks each quarter rather than deferring most planning tasks, training, exercises, and other activities until the last several months of the fiscal year. Those who try to complete a year's work in several months frequently fail when emergencies occur late in the year.

Financial Reports. EMPG Financial reports are due 30 days after the close of each quarter of the federal Fiscal Year. Quarterly Financial Reports are due January 15, April 15, July 15, and October 15. These reports should be sent directly to the TDEM EMPG Auditor at the P.O. Box address at the top of the first page of this letter.

Progress Reports. Your first semi-annual progress report was due to the TDEM Preparedness Section on April 15, 2009. The final progress report is due October 15, 2009. As noted previously, these reports should reflect and document progress in completing the tasks contained in your Statement of Work.

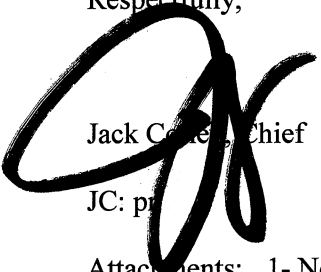
Failure to complete the tasks outlined in your approved Statement of Work or to submit quarterly financial reports and semi-annual progress reports by the required due dates is cause for elimination from the EMPG program.

TDEM/SAA is currently working on adding the EMPG Grant to the State's Grant Management and Accounting System. The TDEM/SAA grant management system provides the individual jurisdiction grantees near-real-time information on project purchases and grant financial status. The TDEM is currently working to set up procedures for the use of the Grant Management System for EMPG expenditures. Until further notice, jurisdictions receiving EMPG Grant funds shall continue submitting manual Expenditure Request and Reimbursement Request to the TDEM.

If you determine that you do not wish to participate in the FY 09 EMPG program, please advise me as soon as possible.

If you have questions regarding the financial reporting requirements, please contact our EMPG Auditor, Doris Grisham, at 512-424-2448. If you have questions regarding EMPG tasks or your Jurisdiction Profile, please contact the EMPG Program Administrator, Rex Ogle, at 512-424-7051.

Respectfully,



Jack C. [unclear], Chief

JC: pr

Attachments: 1- Notice of Sub-Recipient Grant Award
2- Terms and Conditions
3- Approved Statement of Work

FISCAL YEAR 2009

EMPG STATEMENT OF WORK & CUMULATIVE PROGRESS REPORT

APPLICANT NAME (Jurisdiction): Collin County				
Document	Submitted By	Date	GDEM Review By	Date
Statement of Work	Mr. Kelley Stone	12/12/08	<i>Elena</i>	5/8/09
Progress Report #1				
Progress Report #2				

TASK 1—WORK PLAN & SEMIANNUAL PROGRESS REPORT	
☒ Work Plan	Our jurisdiction will submit an EMPG Application, two Progress Reports, two Staffing Commitment Certifications, and four quarterly Financial Reports. Our jurisdiction has appointed a NIMSCAST point of contact, established a NIMSCAST account, and is 100% compliant with FY 2008 NIMSCAST objectives and metrics.
☐ Progress Report #1	☐ This Progress Report # 1 is being submitted to the GDEM Preparedness Section ☐ First & Second Quarter Financial Reports have been submitted to GDEM Support Services.
☐ Progress Report #2	☐ This Progress Report # 2 is being submitted to the GDEM Preparedness Section. ☐ Third & Fourth Quarter Financial Reports have been submitted to GDEM Support Services.

TASK 2—LEGAL AUTHORITIES FOR EMERGENCY MANAGEMENT PROGRAM	
☒ Work Plan	Our jurisdiction will maintain current legal documents establishing our emergency management program. ☒ Our legal documents are current & on file with GDEM; no additional action is required. ☒ Our NIMSCAST account is 100% compliant with all objectives and metrics. ☐ Our jurisdiction will prepare or update & submit to GDEM: ☐ Commissioner's Court Order # ☐ City Ordinance(s) for: ☐ Updated Joint Resolution dated: ☐ NIMS Adoption dated: ☒ TRRN registration completed and resources entered
☐ Progress Report #1 (Oct. 1-Mar. 31)	☐ Our legal documents are current & on file with GDEM, no additional action is required. ☐ Our NIMSCAST account is 100% compliant with all objectives and metrics. ☐ Our jurisdiction completed & submitted to GDEM: ☐ Commissioner's Court Order # ☐ City Ordinance(s) for: ☐ Updated Joint Resolution dated: ☐ NIMS Adoption dated: ☐ TRRN registration completed and resources entered
☐ Progress Report #2 (Apr. 1-Sept. 30)	☐ Our legal documents are current & on file with GDEM, no additional action is required. ☐ Our NIMSCAST account is 100% compliant with all objectives and metrics. ☐ Our jurisdiction completed & submitted to GDEM: ☐ Commissioner's Court Order # ☐ City Ordinance(s) for: ☐ Updated Joint Resolution dated: ☐ NIMS Adoption dated: ☐ TRRN registration completed and resources entered

TASK 3—PUBLIC EDUCATION/INFORMATION

☒ Work Plan	☐ Option 1: Our jurisdiction will conduct 30 hours of hazard awareness activities for local citizens. OR ☒ Option 2: Our jurisdiction will prepare & distribute public education/information materials to a substantial portion of the community. In the space below, describe the materials to be distributed: KnowWhat2Do Public Education Campaign materials, funded by the Metro Urban Area Security Initiative
☐ Progress Report #1 (Oct.1-Mar. 31)	☐ Our jurisdiction completed the following hazard awareness or public education/information activities:
☐ Progress Report #2 (Apr. 1-Sept. 30)	☐ Our jurisdiction completed the following hazard awareness or public education/information activities:

TASK 4—EMERGENCY MANAGEMENT PLANNING DOCUMENTS

☒ Work Plan	☐ Our jurisdiction reviewed our emergency management plan & annexes for currency and NIMS compliance. ☒ Our emergency management plan and all annexes are current and NIMS compliant. ☐ We will develop, update, or change these planning documents: ☐ Basic Plan Annexes: ☐A ☐B ☐C ☐D ☐E ☐F ☐G ☐H ☐I ☐J ☐K ☐L ☐M ☐N ☐O ☐P ☐Q ☐R ☐S ☐T ☐U ☐V ☐ Other documents: NOTE: Plans & annexes dated prior to September 30, 2004, must be revised or updated this year. All Plans and Annexes must be NIMS compliant.
☐ Progress Report #1 (Oct. 1-Mar. 31)	☐ Our jurisdiction reviewed our emergency management plan & annexes for currency and NIMS compliance. ☐ Our emergency management plan and all annexes are current and NIMS compliant ☐ We updated by revision or change these planning documents: ☐ Basic Plan Annexes: ☐A ☐B ☐C ☐D ☐E ☐F ☐G ☐H ☐I ☐J ☐K ☐L ☐M ☐N ☐O ☐P ☐Q ☐R ☐S ☐T ☐U ☐V ☐ Other documents:
☐ Progress Report #2 (Apr. 1-Sept. 30)	☐ Our jurisdiction reviewed our emergency management plan & annexes for currency and NIMS compliance. ☐ Our emergency management plan and all annexes are current and NIMS compliant ☐ We updated by revision or change these planning documents: ☐ Basic Plan Annexes: ☐A ☐B ☐C ☐D ☐E ☐F ☐G ☐H ☐I ☐J ☐K ☐L ☐M ☐N ☐O ☐P ☐Q ☐R ☐S ☐T ☐U ☐V ☐ Other documents:

TASK 5—EXERCISE PARTICIPATION & SCHEDULE

☒ Work Plan

Our required three-year exercise schedule is listed below.
We will conduct & report participation in a tabletop exercise and a functional or full-scale exercise this fiscal year or obtain exercise credit for actual events for these exercises.
☐ Our required exercise schedule includes make up exercises from FY ____.

NOTE: A Full-Scale exercise must be conducted every three (3) years.

REQUIRED EXERCISE SCHEDULE

Period	Exercise Type	Exercise Scenario*	Quarter of Year
Fiscal Year 2009 (Oct. 2008-Sept. 2009)	☒ Tabletop	☐ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☒ Functional	☒ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☐ Full-Scale	☐ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☐ 3 ☐ 4
Fiscal Year 2010 (Oct. 2009-Sept. 2010)	☒ Tabletop	☒ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☒ Functional	☐ NH ☐ TH ☐ NS ☐ TR ☒ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☐ Full-Scale	☐ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☐ 3 ☐ 4
Fiscal Year 2011 (Oct. 2010-Sept. 2011)	☒ Tabletop	☒ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☒ Functional	☐ NH ☐ TH ☐ NS ☐ TR ☒ HM	☐ 1 ☐ 2 ☒ 3 ☐ 4
	☐ Full-Scale	☐ NH ☐ TH ☐ NS ☐ TR ☐ HM	☐ 1 ☐ 2 ☐ 3 ☐ 4

Our last Full-Scale exercise was conducted on (date): 5/17/08

Scenario*: HM

*Scenarios: NH=Natural Hazard, TH=Technological Hazard, NS=National Security, TR=Terrorism, HM=Public Health or Medical

We conducted the following exercises and provided documentation to GDEM:				
	Exercise	Date	# of Participants	# of Jurisdictions
☐ Progress Report #1 (Oct. 1-Mar. 31)	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
☐ Our jurisdiction completed NO exercise and requested credit for an actual event. ☐ Our jurisdiction requested functional or full-scale exercise credit for an actual event on _____ and our request ☐ is pending ☐ was approved and documentation of approval is attached.				
☐ Progress Report #2 (Apr. 1-Sept. 30)	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
	☐ Tabletop			
	☐ Functional			
	☐ Full-Scale			
☐ Our jurisdiction completed NO exercise and requested credit for an actual event. ☐ Our jurisdiction requested functional or full-scale exercise credit for an actual event on _____ and our request ☐ is pending ☐ was approved and documentation of approval is attached.				

TASK 6—TRAINING FOR EMERGENCY MANAGEMENT PERSONNEL☐ Work Plan

EMPG-funded emergency management personnel will participate in the following training during FY 2009:

Position/Name**Course Name or Number**

Jason Lane, Asst. EMC

G710 Hazard Mitigation Plans

Jason Lane, Asst. EMC

IS-630 Intro to Public Assistance

☐ Progress Report #1

(Oct. 1-Mar. 31)

Emergency management personnel completed the following training and documentation is attached:

Position/Name**Course Name or Number****Date**☐ Progress Report #2

(Apr. 1-Sept. 30)

Emergency management personnel completed the following training and documentation is attached:

Position/Name**Course Name or Number****Date**

TASK 7—EMERGENCY MANAGEMENT TRAINING FOR OTHER PERSONNEL					
☒ Work Plan		Our jurisdiction will conduct or arrange emergency management related training for elected officials, other local officials, & support agencies.			
☐ Progress Report #1 (Oct. 1-Mar. 31)		The following formal training courses were taught or contracted:			
		Date	Course Title	Class Description	# Trained
☐ Progress Report #2 (Apr. 1-Sept. 30)		The following formal training courses were taught or contracted:			
		Date	Course Title	Class Description	# Trained
TASK 8—EMERGENCY MANAGEMENT ORGANIZATIONAL DEVELOPMENT					
☒ Work Plan		Our jurisdiction will participate in the following emergency management organizational development activities: Texas Homeland Security Conference			
☐ Progress Report #1 (Oct. 1-Mar. 31)		Our jurisdiction completed the following staff development activities:			
☐ Progress Report #2 (Apr. 1-Sept. 30)		Our jurisdiction completed the following staff development activities:			

APPLICANT NAME:

REMARKS
(Use an Additional Sheet if Necessary)

**FY 2009 EMPG
Terms and Conditions**

1. **Purpose:** Grant funds will be used to support local comprehensive emergency management programs to encourage improvement of mitigation, preparedness, response, and recovery capabilities for all hazards. Funding may be used to support activities that contribute to the capability to manage consequences of acts of terrorism. Funds provided may also be used to accomplish initiatives described in the Federal Program Guidelines, including local implementation of the National Incident Management System (NIMS), incorporation of appropriate references to the National Response Framework (NRF) into local plans, homeland security assessment and strategy integration, and assessment of the local emergency management program using Emergency Management Assessment Program (EMAP) standards.
2. **Grant Conditions:** If federal or state grant funds are involved in funding of this contract, then the conditions of those respective grants are incorporated herein by reference and made a part hereof for all intents and purposes. The federal grant terms and conditions are located at: <http://www.fema.gov/government/grant/empg>.
3. **Grant Acceptance:** The Notice of Subrecipient Grant Award is only an offer until the Subrecipient returns the signed copy of the Acceptance of Subrecipient Grant Award in accordance with the instructions provided in the transmittal letter.
4. **Work to Be Performed:** The approved FY 09 Statement of Work & Progress Report outlines eight tasks that the grantee must perform during the grant period. The following additional tasks are also required of subrecipients:
 - A. Implement the National Incident Management System (NIMS) at the local level.
 - B. Incorporate pertinent information concerning the National Response Framework (NRF) into the local or inter-jurisdictional emergency management plan and its annexes.
 - C. Participate in the Texas Regional Response Network (TRRN) by registering as a user and identifying resources that the jurisdiction(s) participating in the local emergency management program are prepared to make available to other jurisdictions through mutual aid.
 - D. During the performance period of this grant, subrecipient must maintain an emergency management plan at the Advanced Level of planning preparedness or higher, as prescribed by the Governor's Division of Emergency Management (GDEM). This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If the GDEM identifies deficiencies in the subrecipient's plan, subrecipient will correct deficiencies within 60 days of receiving notice of such deficiencies from GDEM.
 - E. During the performance period of this grant, subrecipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.
 - F. Subrecipients must maintain an updated inventory of equipment purchased through this grant program in accordance with Uniform Grant Management Standards – III, State

Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C-Post-Award Requirements, Reports, Records, Retention, and Enforcement, Equipment and the Department of Homeland Security (DHS), Office of Grant Operations Financial Management Guide.

- G. The subrecipient agrees that any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security." Exceptions to this requirement are limited to items where placing of the marking is not possible due to the nature of the equipment.
5. Grant Funding: The amount of this grant may be less than the amount requested in your Application for Federal Assistance due to limits on federal funding for the EMPG program. However, EMPG grant recipients should continue to report all eligible expenses in quarterly financial reports. In the event additional program funding becomes available from the federal government or unspent EMPG funds remain at the end of the fiscal year, the GDEM may be able to allocate additional funds to EMPG program participants.
6. Financial and Administrative Requirements: In Accordance with 44 Code of Federal Regulations (CFR) Part 13, subrecipient agrees to comply with the applicable financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide located at <http://www.ojp.usdoj.gov/financialguide/>.
- A. All emergency management program costs for which the Subrecipient seeks reimbursement must be eligible in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. A copy of that document is available at: <http://www.whitehouse.gov/omb/circulars/>.
- B. Subrecipient will comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the *DHS Office of Grant Operations (OGO)'s Financial Management Guide (January 2006)* at: http://www.ojp.usdoj.gov/odp/docs/Financial_Management_Guide.pdf
- C. When implementing FEMA National Preparedness Directorate funded activities, the subrecipient must comply with all federal civil rights laws, to include Title VI of the Civil Rights Act, as amended. The subrecipient is required to take reasonable steps to ensure persons of limited English proficiency have meaningful access to language assistance services regarding the development of proposals and budgets and conducting FEMA funded activities.
- D. Subrecipient will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321). (Federal Assurance).
- E. Subrecipient agrees to make no request for reimbursement for goods or services procured by the Subrecipient prior to the start of the period of performance stated in this award document or after the end of the period of performance.

- F. Notwithstanding any other provisions of this document, the parties hereto understand and agree that the obligations of GDEM under this Agreement are contingent upon the availability of adequate funds to meet GDEM's liabilities hereunder. GDEM shall not be liable to the Subrecipient for costs under this Agreement that exceed the amount specified in the Notice of Subrecipient Grant Award.
7. Single Audit Act Requirements: If Subrecipient has expenditures in excess of \$500,000 in federal funds of all types within a single fiscal year, it must have an audit performed in accordance with the Single Audit Act as amended. Subrecipient agrees to comply with the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-profit Organizations.
 8. Reporting Requirements: Subrecipient agrees to comply with all reporting requirements and shall provide such information as required by GDEM. Reporting requirements are found in the *Fiscal Year 2009 Local Emergency Management Program Guide*. Subrecipients may be required to submit additional information and data requested by GDEM and/or the State Administrative Agency after the end of the period of performance in order to close out the grant.
 9. Subrecipient must prepare and submit Semi-Annual Progress Reports GDEM/SAA for the duration of the grant performance period or until all grant activities are completed and the grant is formally closed. The first performance reporting period is October 1 to March 31 and the second reporting period is April 1 to September 30 of each fiscal year. Subrecipient may also be required to submit additional information and data requested by GDEM/SAA.
 10. Review of Work and Expenditures: GDEM may review the work of the Subrecipient with respect to approved program tasks and also review expenditures for which reimbursement is requested as necessary to ensure the federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved. These reviews may include, without limitation: comparing actual subrecipient activities to those approved in the sub-award application and subsequent modifications if any; ensuring that grant funds have been expended in accordance with applicable guidelines; confirming compliance with grant assurances, and verifying information provided on performance reports and payment requests.
 11. Lobbying:
 - A. As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the subrecipient certifies that:
 - 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the subrecipient, to any person for influencing or attempting 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 the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
 - 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting 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 this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- 3) The subrecipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

12. Debarment, Suspension, and other Responsibility Matters:

- A. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510. (Federal Certification).
- B. The subrecipient certifies that it and its principals and vendors:
 - 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency; subrecipients can access debarment information by going to www.epls.gov.
 - 2) Have not, within a three-year period preceding this application, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - 4) Have not, within a three-year period preceding this application, had one or more public transactions (Federal, State, or local) terminated for cause or default.
- C. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application (Federal Certification).

13. Monitoring:

- A. Subrecipient will provide GDEM, State Auditor, or DHS personnel or their authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
- B. Subrecipient agrees to monitor their program to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that the performance goals are achieved.

- C. GDEM/SAA may perform periodic reviews of subrecipient performance of eligible activities and approved projects. These reviews may include, without limitation: performance of on-site audit and compliance monitoring, including inspection of all grant-related records and items, comparing actual subrecipient activities to those approved in the sub-award application and subsequent modifications if any, ensuring that advances have been disbursed in accordance with applicable guidelines, confirming compliance with grant assurances, verifying information provided in performance reports and reviewing payment requests, needs and threat assessments and strategies.
- D. Subrecipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA National Preparedness Directorate.
- E. The subrecipient agrees that all allocations and use of funds under this grant will be in accordance with the Homeland Security Grant Program Guidelines and Application Kit for that fiscal year and must support the goals and objectives included in the State Homeland Security Strategic Plan and the Urban Area Homeland Security (UASI) Strategies.
- F. The subrecipient official certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

14. Reimbursement for Expenses:

- A. Reimbursement for expenses incurred during the second and fourth quarter of Fiscal Year 2009 will not be disbursed until GDEM receives the first and second semi-annual EMPG Progress Reports, which are due on April 15, 2009 and October 15, 2009, respectively.
- B. As GDEM plans to promptly close out the Fiscal Year 2009 EMPG program with the State Administrative Agency, requests for reimbursement of expenses that are postmarked more than 45 days after the end of the stated period of performance will not be paid.

15. Choice of Law: This agreement shall be construed and governed by Texas law.

16. Changes to the Law: DPS is a state agency whose authority and appropriations are subject to the actions of the Texas Legislature and the United States Congress. If DPS and/or the subject matter of this contract become subject to a legislative or regulatory change, revocation of statutory or regulatory authority, or lack of funds that would render the services and/or goods and/or payment to be provided under this agreement impossible, unnecessary, void, or substantially amended, DPS may terminate this agreement without penalty to, or any liability whatsoever on the part of, DPS, the State of Texas, and the United States. This contract does not grant vendor a franchise or any other vested property right.

17. Written Modification: No modification or amendment to this Agreement shall become valid unless in writing and signed by both parties.
18. To the extent it applies, Subrecipient shall comply with Texas Government Code, Chapter 783, 1 Texas Administrative Code (TAC) §§5.141 *et seq.*, and the Uniform Grant Management Standards, State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart B, §.14. See Attachment 1.
19. To the extent it applies, Subrecipient shall comply with the General Appropriations Act, 80th Legislature, Article IX, Part 17. See Attachment 2.
20. GDEM may suspend or terminate sub-award funding, in whole or in part, or other measures may be imposed for any of the following reasons: failing to comply with the requirements or statutory objectives of federal law, failing to make satisfactory progress toward the goals or objectives set forth in the sub-award application, failing to follow grant agreement requirements or special conditions, failing to submit required reports, or filing a false certification or other report or document. Satisfactory Progress is defined as accomplishing the following during the performance period of the grant: requesting federal funds for purchases, training, etc. and deciding what purchases will be made, ordering the equipment, ensuring the equipment is shipped and received, and training is accomplished with the equipment (or readied for deployment). All of the aforementioned tasks must be accomplished in a timely manner. **Special Conditions may be imposed on subrecipient's use of grant funds until problems identified during grant monitoring visits conducted by GDEM audit and compliance personnel are resolved.**

Attachment 1

Subpart B—Pre-Award Requirements

____.14 State assurances

(a) Scope. In addition to federal requirements, state law requires a number of assurances from applicants for federal pass-through or other state-appropriated funds. An attempt has been made below to list major state and federal assurances. Generally, not all of these assurances will be required for any one grant. However, it is the applicant's responsibility to ensure that all assurances required by the awarding agency are submitted.

The legal instrument for awarding state funds must be consistent with the standards prescribed herein; however, these standard conditions or assurances may be incorporated into contracts or grant agreements by reference rather than by being reproduced in their entirety.

(1) A subgrantee must comply with Texas Government Code, Chapter 573, Vernon's 1994, by ensuring that no officer, employee, or member of the applicant's governing body or of the applicant's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.

(2) A subgrantee must insure that all information collected, assembled or maintained by the applicant relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, Vernon's 1994, unless otherwise expressly prohibited by law.

(3) A subgrantee must comply with Texas Government Code, Chapter 551, Vernon's 1994, which requires all regular, special or called meeting of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

(4) A subgrantee must comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.

(5) No health and human services agency or public safety or law enforcement agency may contract with or issue a license, certificate or permit to the owner, operator or administrator of a facility if the license, permit or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.

(6) A subgrantee that is a law enforcement agency regulated by Texas Government Code, Chapter 415, must be in compliance with all rules adopted by the Texas Commission on Law Enforcement Officer Standards and Education pursuant to Chapter 415, Texas Government Code or must provide the grantor agency with a certification from the Texas Commission on Law Enforcement Officer Standards and Education that the agency is in the process of achieving compliance with such rules.

(7) When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and local subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See Section _____.36 for additional guidance on contract provisions.)

(8) A subgrantee must comply with the Texas Family Code, Section 261.101 which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subgrantees shall also ensure that all program personnel are properly trained and aware of this requirement.

(9) Subgrantees will comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans With Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

(10) Subgrantees 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.

(11) Subgrantees will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions 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.

(12) Subgrantees will comply with the provisions of the Hatch Political Activity Act (5 U.S.C. § 7321-29) which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.

(13) Subgrantees will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.

(14) Subgrantees will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA. (EO 11738).

(15) Subgrantees will comply with the flood insurance purchase requirements of 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102 (a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

(16) Subgrantees will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

(17) Subgrantees will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

(18) Subgrantees will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

(19) Subgrantees will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

(20) Subgrantees 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 residential structures.

(21) Subgrantees will comply with Public Law 103-277, also known as the Pro-Children Act of 1994 (Act), which prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

(22) Subgrantees will comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.

(23) Subgrantees will comply with all applicable requirements of all other federal and state laws, executive orders, regulations and policies governing this program.

(24) The applicant must certify that they are not debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs.

(25) Subgrantees must adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

Subpart C—Post-Award Requirements - Reports, Records, Retention, and Enforcement

____.42 Retention and access requirements for records.

(a) Applicability. Certain additional standards for retention of public records in Texas are codified at 13 TAC Chap. 6 for state agencies and at 13 TAC Chap. 7 for local governments. The Texas State Library and Archives Commission, through the Records Preservation Advisory Committee has established recommended retention periods longer than three years for many types of public documents, whether in original hard copy or in microfilm form. State awarding agencies may obtain a copy of the Recommended Retention Schedule by contacting the **State Library and Archives Commission**.

(1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

- (i) Required to be maintained by the terms of this Part, program regulations or the grant agreement, or
- (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section applies to records maintained by contractors or subcontractors for purchases of goods or services funded in whole or in part from state funds.

For a requirement to place a provision concerning records in certain kinds of contracts, see Section _____.36 (i) (10).

(b) Length of retention period.

(1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term

retention value. When the records are transferred to or maintained by the federal or state agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) Starting date of retention period.

(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last **audit** report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the federal, **state, or other designated** fiscal year. In all other cases, the retention period starts on the day the grantee submits its final **audit** report. If an **expenditure or audit** report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the federal government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records--

(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, **the Texas State Auditor**, or any of their authorized representatives, shall have the right of access to any pertinent

books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) Restrictions on public access. The federal Freedom of Information Act (5 U.S.C. 552) does not apply to records. Unless required by federal, state, or local law, grantees and subgrantees are not required to permit public access to their records.

PART 17. GRANT-MAKING PROVISIONS

Sec. 17.01. Emergency and Deficiency Grants Out of Special Funds. For the purposes of §§ 401.061 and 403.075, Government Code, appropriations to the Office of the Governor from "special funds" include excess revenues from General Revenue Fund—Dedicated accounts that were previously special funds above those estimated by the Comptroller in certifying this Act.

Sec. 17.02. Limitation on Grants to Units of Local Government.

(a) The funds appropriated by this Act may not be expended in the form of a grant to, or a contract with, a unit of local government unless the terms of the grant or contract require that the funds received under the grant or contract will be expended subject to limitations and reporting requirements similar to those provided by:

- (1) Parts 2 and 3 of this Article (except there is no requirement for increased salaries for local government employees);
- (2) §§ 556.004, 556.005, and 556.006, Government Code;
- (3) §§ 2113.012 and 2113.101, Government Code;
- (4) § 6.15 of this Article (Performance Rewards and Penalties);
- (5) § 7.01 of this Article (Budgeting and Reporting);
- (6) § 7.02 of this Article (Annual Reports and Inventories); and
- (7) § 2102.0091, Government Code.

(b) In this section, "unit of local government" means:

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- (1) a council of governments, a regional planning commission, or a similar regional planning agency created under Chapter 391, Local Government Code;
- (2) a local workforce development board; or
- (3) a MHMR community center.

Sec. 17.03. Grant Restriction. Funds appropriated by this Act may not be expended for a grant to a law enforcement agency regulated by Chapter 1701, Occupations Code, unless:

- (1) the law enforcement agency requesting the grant is in compliance with all rules developed by the Commission on Law Enforcement Officer Standards and Education; or
- (2) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

Sec. 17.04. Grants.

(a) Funds appropriated by this Act for grants of money to be made by state agencies, including the agencies in the legislative branch, are appropriated for the statutory purposes as the grantor agency may specify. A state agency shall distribute grants on a reimbursement or as needed basis unless otherwise provided by statute or otherwise determined by the grantor agency to be necessary for the purposes of the grant.

(b) Funds appropriated by this Act for grants to be made by a state agency for a particular fiscal year may be distributed in subsequent fiscal years so long as the grant has been awarded and treated as a binding encumbrance by the grantor agency prior to the end of the appropriation year of the funds appropriated for grant purposes. Distribution of the grant funds is subject to § 403.071, Government Code.

Sec. 17.05. Grants for Political Polling Prohibited. None of the funds appropriated by the Act may be granted to or expended by any entity which performs political polling. This prohibition regarding political polling does not apply to a poll conducted by an academic institution as a part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.