

# EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM



**PHASE 34 ADDENDUM**

**TO THE**

**PHASE 33 MANUAL**

**Emergency Food and Shelter National Board Program**

**701 North Fairfax Street**

**Alexandria, Virginia 22314-2064**

**(703) 706-9660 - phone**

**(703) 706-9677 - fax**

[www.efsp.unitedway.org](http://www.efsp.unitedway.org)

**Catalog of Federal Domestic Assistance (CFDA) No. 97.024**

***The Phase 33 EFSP Manual is being used for Phase 34 along with this Phase 34 Addendum. The Phase 34 Addendum to the Phase 33 Responsibilities and Requirements Manual contains changes from the original manual issued and published on the Emergency Food and Shelter Program (EFSP) website to guide implementation of the program.*** This addendum must be carefully studied along with the Phase 33 EFSP Manual prior to administering the program, giving any information to the public, or making any grant award. Questions or matters of interpretation must be referred to the National Board staff.

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

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

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# NATIONAL BOARD MEMBERS

Phase 34

**Michael Lee, Chair**

**Federal Emergency Management Agency**

U.S. Department of Homeland Security  
Supervisory Emergency Management Specialist  
Mass Care and Emergency Assistance Division  
500 C Street, SW, Suite 622  
Washington, DC 20472-3100

**Dawn P. Latham**

**American Red Cross**

Director, Government Relations  
431 18<sup>th</sup> Street  
Washington, DC 20006

**Brian Corbin**

**Catholic Charities USA**

Senior Vice President for Social Policy  
2050 Ballenger Avenue  
Suite 400  
Alexandria, VA 22314

**Lindsey Copeland**

**National Council of the Churches  
of Christ in the USA**

Director of Public Policy and Advocacy  
Lutheran Services in America  
100 Maryland Avenue, NE  
Suite 500  
Washington, DC 20002

**William Daroff**

**The Jewish Federations  
of North America**

Senior Vice President for Public Policy  
and Director of the Washington Office  
1720 I Street NW, 8<sup>th</sup> Floor  
Washington, DC 20006

**Ardis Fuge, Lt. Colonel**

**The Salvation Army**

National Social Services Secretary  
615 Slaters Lane  
Post Office Box 269  
Alexandria, VA 22313

**Darlene Slaughter**

**United Way Worldwide**

Vice President, Chief Diversity Officer  
701 North Fairfax Street  
Alexandria, VA 22314-2045

# PHASE 33 RESPONSIBILITIES AND REQUIREMENTS MANUAL

## **PHASE 34 ADDENDUM**

The National Board of the Emergency Food and Shelter Program (EFSP) recently approved changes to the Phase 33 Responsibilities and Requirements Manual published on the EFSP website. ***The Phase 33 EFSP Manual is being used for Phase 34 along with this Phase 34 Addendum.*** These program changes were required for Federal grant administration purposes. The required program changes are provided in this addendum with citations to the appropriate pages in the Phase 33 Manual. Please keep these changes with your copy of the manual and ensure they are implemented for Phase 34, as required.

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

***Pages 40 - 57 - Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions - This section has been amended and should be replaced with the following amended section.***

Pages 5 - 25 of the Phase 34 Addendum replaces pages 40-57 of the Phase 33 Manual.



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

**PAGES  
5 - 25**

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 (formerly Grantee)*, State Set-Aside Committees (SSAs), Local Boards, and Local Recipient Organizations (LROs) that are considered the *Sub-Recipients*. This section of the EFSP Responsibilities and Requirements Manual (EFSP Manual) provides guidance related to the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions of the grant. The EFSP Certification Forms for all parties contain statements that incorporate the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions. All parties must ensure their understanding of this section of the EFSP Manual and the statements on the Certification Forms being signed, as they are agreeing to specific program requirements mandated by the Federal government, including those that do not appear to apply to the types of programs and activities eligible under the EFSP. While some of the articles do not appear to be consistent with the types of programs and activities funded under the EFSP and some state recipient but not sub-recipient, all of the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions must be passed on to all parties participating in the EFSP. ***All parties will be held accountable for complying with the provisions of the grant as well as full compliance with applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program including those not specifically stated in this Manual and the Phase 34 Addendum.***

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

## **GRANT AGREEMENT ARTICLES**

### **Article I - DHS Specific Acknowledgements and Assurances**

All recipients, sub-recipients, 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 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, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS financial

assistance office and the DHS Office of [Civil Rights and Civil Liberties](#) (CRCL) by e-mail at [crcl@hq.dhs.gov](mailto: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 any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS financial assistance office 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 § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 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 financial assistance office, 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. §§ 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**

All recipients are required to comply with the requirements set forth in the government-wide 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 of your award.

*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 applies 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 your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance office exceeds \$10,000,000 for any period of time during the period of performance of this Federal 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 terms and conditions of your award.

*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.*

##### ***1. General Reporting Requirement***

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

##### ***2. Proceedings About Which You Must Report***

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:



- (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (4) Any other criminal, civil, or administrative proceeding if:
  - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### ***3. Reporting Procedures***

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

### ***4. Reporting Frequency***

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

### ***5. Definitions***

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at

the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

B. [Reserved]

#### **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. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

*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 (22 U.S.C. § 7104). The award term is located at 2 CFR §175.15, the full text of which is incorporated here by reference in the terms and conditions of your award.

*EFSP Applicability: This article applies to all State Set-Aside Committees, Local Boards and LROs. While it may appear the types of programs and activities referenced in this article would not be consistent with the types of programs and activities funded by EFSP, the article still applies. 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. § 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. It is the legal responsibility of recipients 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 who receive 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 terms

and conditions of your award. 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. § 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. § 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 who receive 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 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.

#### **Article XVI - Lobbying Prohibitions**

All recipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

*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. § 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. § 2225.

*EFSP Applicability:* This article 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. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974* (49 U.S.C. § 40118) and the interpretative guidelines 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.

**Sec. 2.** Text Messaging While Driving by Federal Employees. Federal employees shall not engage in text messaging (a) when driving GOV, or when driving POV while on official Government business, or (b) when using electronic equipment supplied by the Government while driving.

**Sec. 3.** Scope of Order. (a) All agencies of the executive branch are directed to take appropriate action within the scope of their existing programs to further the policies of this order and to implement section 2 of this order. This includes, but is not limited to, considering new rules and



programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for Federal employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the agency's text messaging policy while off duty.

**Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Subrecipients.** Each Federal agency, in procurement contracts, grants, and cooperative agreements, and other grants to the extent authorized by applicable statutory authority, entered into after the date of this order, shall encourage contractors, subcontractors, and recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government. Agencies should also encourage Federal contractors, subcontractors, and grant recipients and subrecipients as described in this section to conduct initiatives of the type described in section 3(a) of this order.

**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. § 3729- 3733](#) which prohibits the submission of false or fraudulent claims for payment to the Federal Government. See [31 U.S.C. § 3801-3812](#) which details the administrative remedies for false claims and statements made.

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

**Article 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 terms and conditions of your award.

*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. § 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 award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude a recipient from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.

*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. § 701 et seq.](#)), which requires all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act’s implementing regulations at [2 C.F.R Part 3001](#).

*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 [12549](#) and [12689](#), and [2 C.F.R. Part 180](#). These regulations restrict 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. §§ 401 or 402](#) and an acknowledgement of Government sponsorship (including 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. § 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. § 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. § 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 publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy template](#) 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. §§ 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, § 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](mailto: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.*

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions. This policy requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony. The range of actions covered by NEPA is broad and includes making decisions on permit applications, adopting federal land management actions, and constructing highways and other publicly-owned facilities.

Using the NEPA process, agencies evaluate the environmental and related social and economic effects of their proposed actions. Agencies also provide opportunities for public review and comment on those evaluations.

**Article XLI - Nondiscrimination in Matters Pertaining to Faith-based Organizations**

Faith-based organizations are, under [6 C.F.R. Part 19](#), afforded certain protections as it relates to eligibility to receive financial assistance from DHS for social service programs, or to participate in social service programs administered or financed by DHS. Organizations that receive financial assistance from DHS for a social service program or participate in DHS social service programs have an obligation to comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19, which, among other provisions, prohibit recipient organizations from discriminating against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice; and generally require recipients subject to the rule to provide certain protections, and notice of those protections, to their beneficiaries. Recipients must also comply with any other policies and procedures regarding the participation of faith-based organizations contained in applicable statutes, regulations, and guidance governing 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.*

*The statement contained in the Certification Forms – Practices non-discrimination (agencies with a religious affiliation, will not refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling in any program receiving Federal funds), speak to this Grant Agreement Article.*

## FINANCIAL TERMS AND CONDITIONS

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

1) **Definitions**

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

2) **Amendments**

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

3) **Local Board Authority Related to Local Recipient Organizations**

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

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

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

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

**If the Local Board suspects that fraud has been committed by an LRO, the Local Board must contact the DHS/Office of Inspector General with details of the suspected fraud or misuse of Federal funds by telephone at (800 323-8603), or by writing: the U.S. Department of Homeland Security (DHS) Office of Inspector General, Attention: Office of Investigations Hotline, 245 Murray Drive SW, Building 410/Mail Stop 2600, Washington, DC 20528. Fax: 202-254-4297. See [page 30](#) for more details.**

***Phase 34 Addendum***  
***To the Phase 33 Manual Also Used for Phase 34***

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, 113-76, or 114-4), 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 114-113).

**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](http://www.federalreserve.gov/releases/mob/current/default.htm)
  - ii) [www.fdic.gov/regulations/resources/minority/MDI.html](http://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 104](#).
  - 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.

***Phase 34 Addendum***  
***To the Phase 33 Manual Also Used for Phase 34***

- 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 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 [OMB Circular A-133](#), 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. Phase 33 Final Reports will not be required prior to the release of Phase 34 funds to LROs.

**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:



*Phase 34 Addendum  
To the Phase 33 Manual Also Used for Phase 34*

- 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. If you are unsure of where to find these circulars check with your local Congressional Representative, contact the National Board staff, or visit the Office of Management and Budget’s website: [www.omb.gov](http://www.omb.gov).

**11) Suspension and Termination Procedures**

The following definitions shall apply:

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

**12) Lobbying**

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

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

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

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

This certification and disclosure must be submitted prior to grant payment. See [Annex 5, page 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 from the LRO Certification Form from the LRO which state the requirements. Additionally, the Local Board will return each LRO Certification Form with the Local Board Plan.

## **OTHER TERMS AND CONDITIONS**

### **Duplication of Benefits**

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

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

### **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.*

### **Debarment and Suspension**

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

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

### **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](#).



***Phase 34 Addendum  
To the Phase 33 Manual Also Used for Phase 34***

***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:

- a. [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_guidance\\_june2010.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf) and
- b. [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_template.pdf](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.*