



# Commonwealth of Kentucky

## PURCHASE ORDER

**IMPORTANT**

Show Doc ID number on all packages, invoices and correspondence.

<b>Doc Description:</b> Lexington Fayette Urban County Government 13-145	
<b>Doc ID No:</b> PO2 094 1400002977 1	<b>Procurement Folder:</b> 3138617
<b>Procurement Type:</b> Grant	
<b>Administered By:</b> Jennifer Annis	<b>Cited Authority:</b> EMW-2013-SS-00036
<b>Telephone:</b> 502-564-2081	<b>Issued By:</b> Susan Wilkerson

<b>C O N T R A C T O R</b>	LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT
	HOMELAND SECURITY USE ONLY
	200 E MAIN ST
	LEXINGTON KY 40507
	US

**Effective From:** 2013-11-01      **Effective To:** 2014-10-31

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Lexington Fayette Urban County Government 13-145		0.00		0.00000	30,000.00	30,000.00

**Extended Description**

Effective Date: November 1, 2013  
 Expiration Date: October 31, 2014

**Deliverables:**

Second Party shall enhance special team response capabilities through the purchase of search and rescue dive team equipment and related items.

**Scope of Work:**

Second Party shall enhance special team response capabilities through the purchase of search and rescue dive team equipment and related items.

<b>B I L L T O</b>	493257	<b>S H I P T O</b>	493257
	GG GOV OFC.HOMELAND SECURITY		GG GOV OFC.HOMELAND SECURITY
	200 MERO STREET		200 MERO STREET
	FRANKFORT KY 40622		FRANKFORT KY 40622
	US		US

**Total Order Amount:** 30,000.00

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## **FFY 2013 HOMELAND SECURITY GRANT PROGRAM**

### **GRANT INFORMATION AND IDENTIFICATION**

**CFDA Number:** 97.067

**CFDA Title:** Homeland Security Grant Program

**Award Year:** FFY 2013

**Federal Agency:** Department for Homeland Security/FEMA

**Pass-Through Agency:** Kentucky Office of Homeland Security

### **IDENTIFICATION AND OBLIGATIONS OF THE PARTIES**

#### **First Party**

The Office of the Governor, Kentucky Office of Homeland Security (KOHS) (as the First Party), in the exercise of its lawful duties, has determined that the functions outlined in this Agreement and in the attachment(s) thereto, are necessary for compliance with either the statutory and regulatory requirements of the U.S Department of Homeland Security or the Kentucky Office of Homeland Security.

#### **Second Party**

The Second Party is the contractor as defined by *KRS 45A.030(9)* and agrees that they are willing, available and qualified to perform the scope of work as detailed in this agreement and as specifically outlined.

#### **Campaign Finance**

The contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in *KRS 121.056(2)*, to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The contractor further swears under the penalty of perjury, as provided by *KRS 523.020*, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

#### **Cancellation Clause**

Claim or performance disputes will be in accordance with *KRS Chapter 44 and KRS Chapter 45A*. Either party may cancel the contract at any time for cause or may cancel without cause on 30 days written notice.

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### **Change of Circumstances**

Each party shall promptly notify the other party of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect the party's ability to carry out any of its obligations under this Agreement.

### **Choice of Law and Forum Provision**

The laws of the Commonwealth of Kentucky shall govern all questions as to the execution, validity, interpretation and performance of this agreement. Furthermore, the parties hereto agree that any legal action that is brought on the basis of this agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

### **Confidentiality**

The Second Party agrees that any employee or agent acting in its behalf will abide by the state and federal rules and regulations governing access to and use of information provided to the Second Party by the First Party in the administration of this contract.

### **Conflict of Interest Laws and Principles**

The contractor certifies that he/she is legally entitled to enter into this contract agreement with the Commonwealth of Kentucky, and by holding and performing the terms and conditions of this agreement will not violate any conflict of interest statute, including but not limited to *KRS 45A.330-45A.340, 45A.990, KRS 164.390, and KRS 11A.040* of the Executive Branch code of ethics, relating to the employment of former public servants

### **Data Collection/Analysis Limitations**

No data collected and provided by the First Party shall be used for any other purpose other than those expressly authorized in this Agreement.

### **Effective Date**

All Memoranda of Agreement are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Government Contract Review Committee. However, Memoranda of Agreements \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes only, as provided under *KRS 45A.700*.

### **Entire Agreement**

This Agreement forms the entire agreement between the parties as to scope and subject matter of this Agreement. All prior discussions and understandings concerning the scope and subject matter are superseded and incorporated by this Agreement.

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### **Extensions and Amendments to this Agreement**

The terms and conditions of this agreement may be extended or amended according to the provisions of *KRS Chapter 45A*, and are subject to the approval of the Director of KOHS, the Secretary of the Finance and Administration Cabinet and/or the Legislative Research Commission's Government Contracts Review Committee. The agency reserves the right to modify this agreement for the addition or deletion of requirements deemed necessary by the agency with the mutual agreement of both parties in accordance with *KRS 45A.030 (2); KRS 45A.210 (1); (200 KAR 5:311)* Any mutually agreed upon changes to the agreement must be approved, in writing, by KOHS prior to implementation or obligation and shall be incorporated in written amendments to this agreement. This procedure for changes to this approved agreement is not limited to budgetary changes, but also includes changes of substance in project activities and changes in the project director or key professional personnel identified in the approved application.

### **Liability and Indemnity**

Nothing in this Agreement shall be construed as an indemnification by one party of the other for liabilities of a party or third persons for property loss or damage or death or personal injury arising out of and during the performance of this Agreement. Any liabilities or claims for property loss or damage or for death or personal injury by a party or its agents, employees, contractors or assigns or by third persons, arising out of and during the performance of this Agreement shall be determined according to applicable law.

### **Notices**

Any notice, transmittal, approval, or other official communication made under this Agreement shall be in writing and shall be delivered by hand, facsimile transmission, or by mail to the other party.

### **Severability**

If any provision of this Agreement is held judicially invalid, the remainder of the Agreement shall continue in full force and effect to the extent not inconsistent with such holding.

### **Sole Benefit**

This Agreement is intended for the sole benefit of the First Party, the Second Party, and, if implementing a federal grant program element, the United States Government, and is not intended to create any other beneficiaries.

### **Subcontractor Requirement**

The Second Party agrees that all requirements of this agreement shall also be applicable and binding on any subcontractor the Second Party may contract with to meet the statement of work, method of payment, and deliverables of this agreement. All Second Party subcontractors are

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subject to First Party approval.

### **Successors and Assigns**

This Agreement may not be assigned by a party without the express written consent of the other party. All covenants made under this Agreement shall bind and inure to the benefit of any successors and assigns of the parties whether or not expressly assumed or acknowledged by such successors or assigns.

### **Violation of Tax and Employment Laws**

*KRS 45A.485* requires the contractor to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of *KRS chapters 136, 139, 141, 337, 338, 341, and 342*. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of *KRS 45A.485*, the contractor shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

*KRS 45A.485* also provides that, for the duration of any contract, the contractor shall be in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

### **Waiver of Breach**

If a party waives enforcement of any provision of this Agreement upon any event of breach by the other party, the waiver shall not automatically extend to any other or future events of breach.

### **IDENTIFICATION OF THE SUBJECT MATTER OF THE CONTRACT**

Environmental Planning and Historic Preservation (EHP)

The Second Party acknowledges that any project considered to constitute construction or renovation must receive prior approval from FEMA before any work or financial expenditures can be made.

### **Intellectual Properties**

The contractor agrees that any formulae, methodology, other reports and compilations of data provided by the First Party to the contractor for the purposes of meeting the terms and conditions

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of this agreement, or as developed, prepared or produced by the contractor for use by the First Party under the scope of services of this agreement shall be the exclusive property of the First Party. Any use of this material for purposes other than those specifically outlined and authorized by this agreement without prior approval and without appropriate acknowledgement of the funding source, shall be grounds for immediate termination of this agreement and possible criminal prosecution.

### **Kentucky Wireless Interoperability Executive Committee**

Any portion of this agreement that involves data or voice communication equipment or projects, including data or voice interoperability equipment or projects shall be presented by the Second Party for action by the Kentucky Wireless Interoperability Executive Committee (KWIEC). Furthermore, it is a condition of this agreement that all recommendations of the KWIEC, will be accepted and implemented by the Second Party prior to the commencement of the project addressed in this agreement. A copy of the KWIEC decision will be provided to the First Party by the Second Party.

### **Mutual Aid and Interoperability Memorandum of Understanding**

The Second Party and any other local entities receiving benefit from these grant funds must have a Mutual Aid Memorandum of Understanding with the Kentucky State Police.

### **NIMS Requirements**

In accordance with *HSPD-5, Management of Domestic Incidents*, the adoption of the national Incident Management System (NIMS) is a requirement to receive Federal preparedness assistance through grants, contracts, and other activities.

### **Project Implementation**

The sub grantee agrees to implement this project within 60 days following the grant award effective date or be subject to automatic cancellation of the grant.

### **Property Control**

Effective control and accountability must be maintained for all personal property. Sub grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes. Sub grantees should exercise caution in the use, maintenance, protection and preservation of such property.

**Title:** Subject to the obligations and conditions set for in *28 CFR Part 66*, title to non-expendable property acquired in whole or in part with grant funds shall be vested in the sub grantee. Non-expendable property is defined as any item having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

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**Use and disposition:** Equipment shall be used by the sub grantee in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal funds. When use of the property for project activities is discontinued, the sub grantee shall request, in writing, disposition instructions from KOHS prior to actual disposition of the property. Theft, destruction, or loss of property shall be reported to KOHS immediately.

**Inventory:** The Second Party must submit to the First Party an inventory of all equipment purchased with these federal funds. This inventory must include the item inventory number, item description, and site where equipment is located.

### **Property Purchased by the First Party (KOHS)**

Property purchased by the First Party for the purposes of fulfilling the requirements of the scope of services for this agreement, and which may include, but not be limited to, furniture, computer software, computer hardware, office equipment, and supplies are considered the property of the First Party and shall remain the property of the First Party.

### **Scope of Work**

This grant will provide reimbursement funding to the Second party for the specific scope of work described in the Extended Description. Successful completion by the Second party shall include the deliverables as listed in the Extended Description.

## **CONSIDERATION AND CONDITIONS FOR PAYMENT**

### **Availability of Federal Funds**

This grant award is contingent upon availability of federal funds approved by Congress.

### **Consultant Rate**

Approval of this agreement does not indicate approval of any consultant rate in excess of \$450 per day. A detailed justification must be submitted and approved by the First Party and FEMA's National Preparedness Directorate prior to obligation or expenditure of such funds.

### **Deobligation of Grant Funds**

All grant funds must be deobligated within thirty (30) calendar days of the end of the grant period. Failure to deobligate the grant in a timely manner may result in an automatic deobligation of the grant by KOHS.

### **Earliest Date of Payment**

No payment on this agreement shall be made before completion of the review procedure provided for in KRS 45A.705, unless alternate actions occur as set out in *KRS 45A.695 (7)*. Payments on personal service contracts and memoranda of agreements shall not be authorized

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for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

### **Financial Management System**

The Second Party agrees to establish and/or maintain a financial management system which shall provide for: Accurate, current, and complete disclosure of the financial results of the functions/services performed under this agreement in accordance with the reporting requirements as set forth in this Agreement and attachment(s) thereto; Records that identify the source and application of funds for activities/functions/services performed pursuant to this contract agreement. These records shall contain information pertaining to federal and/or state funds received, obligations, un-obligated balances, if applicable, assets, liabilities, expenditures and income; Effective control over and accountability for all funds, property, and other assets. The Second Party shall safeguard all such assets and shall assure that they are used solely for authorized purposes in the provision of functions/services under this agreement; Procedures for determining reasonableness, and allowability of costs in accordance with the terms and conditions of this Agreement and any attachment(s) thereto; and Accounting records that are supported by source documentation.

### **Funding Out Provision**

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the contractor thirty (30) calendar days written notice of termination of the contract.

### **Interest Income**

Grant funds not reimbursed immediately to a vendor, subcontractor, etc. must be placed in an interest bearing account. The applicant agrees to be accountable for all interest earned with respect to these grant funds. Interest earned by this grant during the project must be reported and returned to KOHS quarterly.

### **Obligation of Grant Funds**

Grant funds may not be obligated prior to the effective date of this approved legal agreement. No obligations are allowed after the end of the grant period.

### **Payments**

#### **Payments to applicants**

Payment by the First Party to the Second Party shall be made only after receipt of appropriate, acceptable and timely request for reimbursements. Reimbursement requests will be submitted on



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approved Kentucky Office of Homeland Security forms as provided by the First Party and submitted in written format to the First Party by the Second Party. The method of reimbursement will be through electronic funds transfer.

### **Final Request for Reimbursements:**

Final request for reimbursements must be submitted to the First Party no later than 45 days after the expiration of this agreement.

### **Procurement**

The acquisition of goods and services by the Contractor in performance of this Agreement shall be according to applicable Commonwealth of Kentucky contracting procedures, the standards and procedures contained in applicable federal regulations (*44 CFR*).

### **Purchasing and Specifications**

The Second Party certifies that he/she will not attempt in any manner to influence any specifications to be restrictive in any way or respect, nor will he/she attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and Section 7.09 that pertains to conflict of interest laws and principles, "He" is construed to mean "They" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "He" is construed to mean any person with an interest therein.

### **Program Income**

The applicant agrees to be accountable for all interest or other income earned by the Second Party with respect to grant funds or as a result of conduct of the project (sale of publications, registration fees, service charges, rebates, etc.). All program income generated by this grant during the project must be reported to KOHS quarterly and must be put back into the project or be used to reduce the grantor participation in the program. The use or planned use of all program income must have prior written approval from KOHS.

### **Reimbursement**

The Second Party is required to sign this Agreement with the Kentucky Office of Homeland Security to gain access to its allocated funds. No funds will be forwarded. The funds are allocated on a cost reimbursement basis. To receive reimbursement, the Second Party is required to provide the Kentucky Office of Homeland Security with copies of all obligation documents executed under this agreement and an inventory for equipment purchased.

### **Social Security**

The Second Party and all other parties so contracted for services under the scope of service of this agreement agree that they are cognizant that the First Party is not liable for Social Security

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contributions pursuant to *42 U.S Code, Section 418*, relative to the compensation of the Second Party during the effective dates of this agreement.

**Total Amount of Contract and Contract Period**

The Second Party’s and/or Third Party’s fees and expenses relative to the performance of the scope of services outlined in this Agreement and in the detailed attachment(s) (if applicable) to this agreement shall not exceed the Total Order Amount as set forth in this Agreement. The subject services and functions are to be performed during the term of this agreement. It is understood that this agreement is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and/or Legislative Research Commission’s Government Contract Review Committee per *KRS 45A.705*.

**Transfer of Funds**

The Second Party is prohibited from transferring funds between programs (State Homeland Security Program, Urban Areas Security Initiative, Law Enforcement Terrorism Prevention Program, Citizens Corps Program, Emergency Management Performance Grant, Interoperable Emergency Communications Grant Program, Buffer Zone Protection Program, Emergency Operations Center Grant Program, Metropolitan Medical Response System or any other Federal Grant Program).

**Travel**

The contractor shall be paid no travel expense unless and except as specifically authorized under the specifications of this agreement. Unless otherwise indicated, travel reimbursement shall be in accordance with *200 KAR 2:006*. No travel time nor travel expenses will be included in the Second Party’s or any subcontractor’s hourly rates.

**Other Expenses**

The contractor shall be reimbursed for no other expenses than those, which have been expressly detailed in this Agreement. All direct charges shall be documented to support the direct charging of the expense. Where applicable

**Invoicing for fee:** The contractor’s fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method prescribed in the specifications of this contract.

**Invoicing for travel expenses:** The contractor must follow instructions prescribed in the specifications of this agreement. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and all other miscellaneous expenses.

**Invoicing for miscellaneous expenses:** The contractor must follow instructions prescribed in the specifications of this agreement. Expenses submitted shall be documented by certified copies.

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### **Vendor Verification**

The Second Party must verify that any vendor providing services is not on the Federal Excluded Parties Listing System prior to any contracts funded by federal funds. This verification must be submitted with each reimbursement request to verify that the vendor is not debarred at the time of order. This information may be found at [www.epls.gov](http://www.epls.gov). Reimbursement will not be made without this verification.

### **Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

### **ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS**

The Second Party must, in addition to the assurances made as part of their application, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of the award, and the approved application.

The Second Party agrees that all allocation and use of funds under this grant will be in accordance with the Funding Opportunity Announcement and must support the goals and objectives included in the State Homeland Security Strategy.

### **Applicable Law**

This Agreement is incidental to the implementation of a federal grant program. Accordingly, this Agreement shall be governed by and construed according to Federal law as it may affect the right, remedies, and obligations of the United States.

### **Governing Regulations**

To the extent not inconsistent with the express terms of this Agreement, the provisions of *44 CFR*, Uniform Administrative Requirements for Grants and Cooperative Agreements and *OMB Circular A-87* which are hereby incorporated by reference as if fully set forth herein, shall govern this agreement.

### **Assurances, Administrative Requirements and Cost Principles**

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

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- *Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the “A-102 Common Rule”) These A-102 requirements are also located within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13.*
  - *OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.*
- b.** The cost principles that apply to DHS award recipients through a grant or cooperative agreement originate from one of the following sources:
- *OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220*
  - *OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225*
  - *OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230*

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

- *OMB Circular A-133, Audits of States, Local Governments and Non-Profits Organizations.*

**COMPLIANCE WITH FEDERAL CIVIL RIGHTS LAWS AND REGULATIONS**

The Second Party is required to comply with Federal civil rights laws and regulations. The Second Party must comply with all regulations, guidelines, and standards adopted under the below listed statutes. The Second Party is also required to submit information, as required, to the DHS Office for Civil Rights and Civil Liberties concerning its compliance with these laws and their implementing regulations. Specifically, the grantee is required to provide assurances as a condition for receipt of Federal funds that its programs and activities comply with the following:

**Titles I, II and II of the Americans with Disabilities Act**

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*).

**Title VI of the Civil Rights Act of 1964, as amended, 42. U.S.C. §2000 et. seq.**

Provides that no person on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity receiving Federal financial assistance. Title VI also extends protection to

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persons with Limited English Proficiency (LEP). (*42 U.S.C. §2000d et seq.*).

### **Title VIII of the Civil Rights Act of 1968**

Prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (*42 U.S.C. §3601 et seq.*), as implemented by the Department of Housing and Urban Development at *24 CFR Part 100*.

The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features (see *24 CFR § 100.201*).

### **Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §1681 et. seq.**

Provides that no person, in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at *44 CFR Part 19*.

### **Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794**

Provides that no otherwise qualified, handicapped individual with a disability in the United States, will, solely by reason of the handicap, be excluded from the participation in, be denied the benefits of, or subject to discrimination in any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

### **The Age Discrimination Act of 1975, as amended, 20 U.S.C. §6101 et. seq.**

Provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

### **Services to Limited English Proficient (LEP) Persons**

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

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information regarding LEP obligations, go to <http://www.lep.gov>

## **CERTIFICATIONS AND ASSURANCES**

Certifications and assurances regarding the following apply:

### **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.

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

All award recipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate.

Award recipients may also find as a useful resource the DHS Privacy Impact Assessments:

[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

[http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_template\\_pdf\\_respectively](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template_pdf_respectively)

### **Buy American Act**

The Second Party agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (*41 U.S.C. 10*). The Buy American Act gives preference to domestic end products and domestic construction materials. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide the EC and NAFTA end products and construction materials are exempted from application of The Buy American Act. First Party encourages second party to use Kentucky services and/or products.

### **Classified National Security Information**

As defined in *Executive Order (EO) 12958*, as amended, means information that has been determined pursuant to *EO 12958* or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

No funding under this award shall be used to support a contract, sub award, or other agreement for goods or services that will include access to classified national security information if the award recipient has not been approved for and has access to such information.

Where an award recipient has been approved for and has access to classified national security

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information, no funding under this award shall be used to support a contract, sub award, or other agreement for goods or services that will include access to classified national security information by the contractor, subawardee, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or, an appropriate official within the Federal department or agency with whom the classified effort will be performed.

Such contracts, sub awards, or other agreements shall be processed and administered in accordance with the DHS -Standard Operating Procedures, Classified Contracting by States and Local Entities, - dated July 7, 2008; EOs 12829, 12958, 12968, as amended; the National Industrial Security Program Operating Manual (NISPOM); and/or other applicable implementing directives or instructions. All security requirement documents are located at:

<http://www.dhs.gov/xopnbiz/grants/index.shtm>

### **Clean Air Act of 1970 and Clean Water Act of 1977**

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

### **Copeland “Anti-Kickback” Act**

The Second Party agrees that it will comply with the Copeland “Anti-Kickback” Act (*18 U.S.C. 874*) as supplemented in United States Department of Labor Regulations (*29 CFR Part 3*). As applied to this agreement, the Copeland “Anti-Kickback” Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

### **Copyright**

All recipients must affix the applicable copyright notices of *17 U.S.C § 401 402* and acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

### **Debarment and Suspension**

All recipients must comply with *Executive Orders 12549 and 12689*, which provide protection against waste, fraud and abuse by debarring or suspending those persons deemed irresponsible in their dealing with the Federal government.

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### **Disadvantaged Business Requirement**

To the extent that the Second Party uses contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

### **Drug-free Workplace Act**

All recipients must comply with the Drug-Free Workplace Act of 1988 (*412 U.S.C. § 701 et seq*), which requires that all organizations receiving grants from any Federal Agency agree to maintain a drug-free workplace. These regulations are codified at *2 CFR 3001*.

### **Duplication of Benefits**

State, Local and Tribal Recipients must comply with *2 CFR Part §225, Appendix A, paragraph (C)(3)(c)*, which provides that 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.

### **Environmental Standards**

The recipient will comply with all applicable Federal, State, and local environment and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, and Executive Orders on Floodplains (11988), Wetlands (11990), and Environmental Justice (12898). Failure of the recipient to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding. Recipient shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Recipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbance activities occur during project implementation, the recipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the recipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Any construction activities that have been initiated prior to the full environmental and historic preservation review could result in a non-compliance finding.

The Second Party shall provide such information as may be requested by KOHS to ensure compliance with any applicable environmental laws and regulations. Second Party shall not undertake any construction project without the approval of First Party and DHS, as required by the grant guidance.



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### **Equipment Marking**

The Second Party agrees that, when practicable, equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the Kentucky Office of Homeland Security and the U.S. Department of Homeland Security" in order to facilitate their own audit processes, as well as Federal audits and monitoring visits, which may result from receiving Federal funding. Additionally, any equipment purchased with funding under this agreement shall, when practicable, bear on it the logos of the Kentucky Office of Homeland Security and the U.S. Department of Homeland Security.

### **Use of DHS Seal, Logo and Flags**

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

### **Federal Debt Status**

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

### **False Claims Act and program Fraud Civil Remedies**

All recipients must comply with the requirement of *31 U.S.C. §3729* which set forth that no recipient of federal payments shall submit a false claim for payment. See also *38 U.S.C. § 3801-3812* which details the administrative remedies for false claims and statements made.

### **Federal Energy Policy Legislation**

Second Party must comply with the following:

None of the funds made available shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the national Energy Conservation Policy Act (*42 U.S.C 851 et seq*), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).

None of the funds made available shall be used in contravention of section 303 of the Energy Policy Act of 1992 (*42 U.S.C 13212*).

### **Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under *49 U.S.C. § 41102*) for international air transportation of people and property to the extent that such service is available, in accordance with the

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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 B138942.

### **Fusion Center**

The Second Party agrees that funds utilized to establish or enhance state and local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines and achievement of a baseline level of capability as defined by the Fusion Capability Planning Tool.

### **Hatch Act**

The Second Party agrees to comply with the Hatch Act (*5 U.S.C. 1501 –1508 and 7324 – 7328*), as implemented by the United States Office of Personnel Management at 5 CFR Part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.

### **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)*, 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, *15 U.S.C. §2225*.

### **Integrating Individuals with Disabilities into Emergency Planning**

The Second Party must integrate individuals with disabilities into any emergency planning activity.

Section 504 of the Rehabilitation Act of 1973, as amended Prohibits discrimination against people with disabilities in all aspects of emergency mitigation, planning, response, and recovery by entities receiving financial funding from FEMA. In addition, Executive Order 13347, Individuals with Disabilities in Emergency Preparedness, signed in July 2004, requires the Federal government to support safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism. Executive Order 13347 requires the Federal government to encourage consideration of the needs of individuals with disabilities served by State, local, tribal, and territorial governments in emergency preparedness planning.

### **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

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action concerning the award or renewal.

## **National Initiatives**

All award recipients must be aware of and support the following national preparedness initiatives:

### **HSPD-8: National Preparedness**

The Second Party must be aware of and support HSPD-8 that establishes policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a National Preparedness Goal, establishing mechanisms for improved delivery of federal preparedness assistance to state and local governments, and outlining actions to strengthen preparedness assistance to state and local governments, and outlining actions to strengthen preparedness capabilities of federal, state, and local entities.

### **Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

## **ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS**

The Second Party must, in addition to the assurances made as part of their application, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of the award, and the approved application.

The Second Party agrees that all allocation and use of funds under this agreement will be in accordance with the appropriate FFY2012 Homeland Security Grant Program Funding Opportunity Notice and must support the goals and objectives included in the State Homeland Security Strategy.

### **Acknowledgement 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.

### **National Preparedness Reporting Compliance**

The Government Performance and Results Act of 1993 (Public Law 103-62) requires that the Department collect and report performance information on all programs. For grant programs, the

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prioritized Investment Justifications and their associated milestones provide an important tool for assessing grant performance and complying with these national preparedness reporting requirements. FEMA will work with grantees to develop tools and processes to support this requirement. FEMA anticipates using this information in making future-year grant program funding decisions. Award recipients must agree to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within their grant agreement. This includes any assessments, audits, or investigations conducted by DHS, the Office of the Inspector General, or the Government Accountability Office (GAO).

**National Response Plan (NRP)**

The Second Party must be aware of and support and in all respects comply with the NRP that is an all-discipline, all-hazards plan that establishes a single, comprehensive framework for the management of domestic incidents. It provides the structure and mechanisms for the coordination of federal support to state and local incident managers and for exercising direct federal authorities and responsibilities. The NRP assists in the important homeland security mission of preventing terrorist attacks within the United States; reducing the vulnerability to all natural and manmade hazards and minimizing the damage and assisting in the recovery from any type of incident that occurs. Compliance with the NRP coordinating structures, protocols and processes is essential for ensuring a national comprehensive approach to domestic incident managements

**Non-supplanting Requirement**

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

**Preference for U.S. Flag Carriers**

The Second Party agrees to comply with *46 U.S.C. 1241(b)* and regulations issued there under (*46 CFR Part 381*) concerning the use of privately-owned United States flag commercial vessels.

**Protected Critical Infrastructure Information (PCII)**

The PCII Program, established pursuant to the Critical Infrastructure Act of 2002 (Public Law 107296) (CII Act), created a framework which enables members of the private sector, States, local jurisdictions, and tribal nations to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act provides statutory protection from public disclosure and civil litigation for CII that is validated as PCII. When validated as PCII, the information can only be shared with government employees who complete the training requirement, who have Homeland Security duties and a need to know. PCII accreditation is a formal recognition that the covered government entity has the capacity and capability to receive and store PCII

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appropriately.

### **Publications Statement**

Second Party agrees that all publications created with funding under any grant award shall prominently contain the following statement: "This document was prepared under a grant from the Kentucky Office of Homeland Security (KOHS), Federal Emergency Management Agency's Grant Programs Directorate (FEMA/GPD) within the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of KOHS or FEMA/GPD or the U.S. Department of Homeland Security." Additionally, any publication created with funding under this agreement shall bear on it the logos of the Kentucky Office of Homeland Security and the U.S. Department of Homeland Security.

### **Trafficking Victims Protection Act of 2000**

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

### **USA Patriot Act of 2001**

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act), which amends 18 U.S.C. §§ 175-175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by prophylactic, protective, bona fide research, or other peaceful purpose.

### **Technology Requirements**

#### **National Information Exchange Model (NIEM)**

FEMA requires all grantees to use the latest NIEM specifications and guidelines regarding the use

of Extensible Markup Language (XML) for all grant awards. Further information

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about the required use of NIEM specifications and guidelines is available at

<http://www.niem.gov>

### **Geospatial Guidance**

Geospatial technologies capture, store, analyze, transmit, and/or display location-based information (i.e., information that can be linked to a latitude and longitude). FEMA encourages grantees to align any geospatial activities with the guidance available on the FEMA website at

<http://www.fema.gov/grants>

### **28 CFR Part 23 Guidance**

FEMA requires that any information technology system funded or supported by these funds comply with *28 CFR Part 23*, Criminal Intelligence Systems Operating Policies, if this regulation is

determined to be applicable.

### **Best Practices for Government Use of CCTV**

DHS recommends that grantees seeking funds to purchase and install closed circuit television (CCTV)

systems, or funds to provide support for operational CCTV systems, review and

utilize the guidance in Best Practices for Government Use of CCTV:

Implementing the Fair Information Practice Principles available on the DHS Privacy Office website at

<http://www.dhs.gov/xlibra>

### **REPORTING REQUIREMENTS**

Reporting requirements must be met throughout the life of the grant. Any reports or documents prepared as a result of this grant shall be in compliance with Federal “plain English” policies, directives, etc.

### **DHS Specific Acknowledgements and Assurances**

All recipients of financial assistance must acknowledge and agree-and require any sub recipient’s contractors, successors, transferees, and assignees acknowledge and agree-to comply with applicable provisions governing DHS access to records, accounts, documents, information,

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

### **Certification (Access to Records)**

*The state agency certifies that it is in compliance with the provisions of KRS 45A.695. "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1) (c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884*

### **Closeout**

The First Party will close out this award when it determines that all applicable administrative actions and all required work of the grant have been completed. Within 30 days after the expiration or termination of this agreement, the Second party must submit all financial, performance, and other reports required as a condition of this grant.

### **Cooperation**

It is specifically recognized by the Second Party that it is their duty to reasonably accommodate

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the informational requests of the First Party in a timely manner and in the form they are requested. The Second Party agrees that the sole and final authority on compliance with any Federal or State regulations, statues and guidelines with respect to the grant rests with the Second Party and as such, will ensure that every effort is made to honor that compliance guidance.

### **Exercise Evaluation and Improvement Reports**

Any Second Party funded to provide Exercises must report on any scheduled exercise and ensure that an After Action Report (AAR) and Improvements Plan (IP) are prepared for each exercise conducted with FEMA support (grant funds or direct support) and submitted to the FEMA Grants and Preparedness Community of Interest (COI) on the Homeland Security Information Network (HSIN) within 90 days following completion of the exercise.

Required submissions: AARs and IPs (as applicable)

### **Financial and Compliance Audit Report**

The Second Party agrees to submit each year financial information on the total amount of federal funds expended. If the Second Party expends \$500,000 or more in total federal grant money during the sub recipient's fiscal year, an annual audit will be performed and a copy provided to the Kentucky Office of Homeland Security no later than 30 days after receipt of the final audit report. *OMB Circular A-133*, Audit of the States, Local Governments, and Non-Profit Organizations.

Required submissions: Verification of federal expenditures and Single Audit (as applicable)

### **Monitoring**

The Second Party shall submit, at such times and in such form as may be prescribed, such reports as the first party may reasonably require, including financial reports, progress reports, final financial reports and evaluation reports. The Second Party shall also comply with any and all site visit monitoring performed by the First Party. The Second Party agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.

Required Submissions: Any other requested reports and site visits

### **Quarterly Reports**

The Second Party agrees to submit within 30 days after the end of each calendar quarter a written report on all programmatic and financial activities. Quarterly reports will be submitted on approved Kentucky Office of Homeland Security forms as provided by the First Party.

Required Submissions: Quarterly Reports



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### **Open Records**

Request for information under the Kentucky Open Records Act which may reasonably lead to the discovery of any information related to homeland security records as defined by *KRS 61* may not be disclosed without the written approval of the Director of KOHS.

### **Performance Timeline**

Upon request by the First Party, the Second Party will provide summaries of progress made to date on this agreement. Should the First Party find the performance unacceptable, the First Party shall provide written notification and may cancel the agreement immediately.

### **Central Contractor Registration and Universal Identifier Requirements**

Upon request by the First Party, the second Party must provide its DUNS number.

### **Retention of Records**

Records must be retained for three years from the day that the Kentucky Office of Homeland Security submits its final expenditure report for the federal grant funding this project.

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**SECOND PARTY**

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Second Party

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Signature

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Title

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Date

**First Party**

**Commonwealth of Kentucky, Office of the Governor,**

**Kentucky Office of Homeland Security**

**Eugene L. Kiser, Executive Director**

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Signature

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Date

**Approved as to form and legality:**

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Date