

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF ILLINOIS; STATE OF CALIFORNIA; STATE OF NEW JERSEY; STATE OF RHODE ISLAND; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; STATE OF HAWAI‘I; STATE OF MAINE; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; PEOPLE OF THE STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF OREGON; STATE OF VERMONT; STATE OF WASHINGTON; STATE OF WISCONSIN,

*Plaintiffs,*

v.

No. 1:25-cv-\_\_\_\_\_

FEDERAL EMERGENCY MANAGEMENT AGENCY; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; UNITED STATES COAST GUARD; DAVID RICHARDSON, in his official capacity as Senior Official Performing the Duties of the Administrator of the Federal Emergency Management Agency; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and KEVIN E. LUNDAY, in his official capacity as Acting Commandant of the U.S. Coast Guard,

*Defendants.*

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. For decades, state and local governments have relied on federal funding—totaling billions of dollars annually—to prepare for, protect against, respond to, and recover from catastrophic disasters. These grants fund first responders’ salaries and pay for the training they

receive. They fund building improvements to ensure houses of worship and schools are not vulnerable to malicious attacks. They fund computer network testing to identify cyberattack vulnerabilities. They fund projects to mitigate earthquake and flood risks, and to manage active large-scale wildfires. They fund search and rescue efforts and food aid after natural disasters. They pay case managers who work directly with disaster survivors to develop recovery plans.

2. Congress created these federal grant programs and appropriates billions of dollars each year to ensure they are fully funded to meet the Nation's needs. Many were authorized by legislation passed in the wake of national emergencies, such as the September 11 terrorist attacks and Hurricane Katrina, in an effort to strengthen the nation's preparedness for and response to emergencies and major disasters.

3. Now, the U.S. Department of Homeland Security ("DHS") and its sub-agencies—particularly the Federal Emergency Management Agency ("FEMA"), which Congress has tasked with overseeing the disbursement of federal emergency funds to the States—seek to upend this emergency management system, holding critical emergency preparedness and response funding hostage unless States promise to devote their scarce criminal enforcement resources, and other state agency resources, to the federal government's own task of civil immigration enforcement beyond what state law allows (in some States) or requires (in others). Defendants assert a sweeping entitlement to use state law enforcement officers for federal immigration enforcement, contravening the basic principle that States "remain independent and autonomous within their proper sphere of authority." *Printz v. United States*, 521 U.S. 898, 928 (1997). And they seek to require many States to abandon well-considered policies that advance public safety by promoting trust between law enforcement and immigrant communities as a condition on continued funding of emergency management programs unrelated to immigration enforcement. By hanging a halt in this critical funding over States like a sword of Damocles, Defendants impose immense harm on

States, forcing them to choose between readiness for disasters and emergencies, on the one hand, and their judgment about how best to investigate and prosecute crimes, on the other.

4. Defendants' grant funding hostage scheme violates two key principles that underlie the American system of checks and balances: agencies in the Executive Branch cannot act contrary to the authority conferred on them by Congress, and the federal government cannot use the spending power to coerce States into adopting its preferred policies. Defendants have ignored both principles, claiming undelegated power to place their own conditions on dozens of grant programs that Congress created and bulldozing through the Constitution's boundary between state and federal authority.

5. In furtherance of this funding hostage scheme, on March 27, 2025 and April 18, 2025, DHS issued new sets of "Standard Terms and Conditions" applicable to all federal awards. The 2025 Terms and Conditions include, for the first time, new requirements compelling States to divert their law enforcement resources away from core public safety missions to federal civil immigration enforcement and to stop operating any program that "benefits illegal immigrants or incentivizes illegal immigration."

6. DHS cites no statutory authority for these new requirements. Nor could it. The grant statutes that Congress has passed do not permit DHS to condition all agency funds on an agreement to cooperate with civil immigration enforcement.

7. DHS's decision to impose this new set of conditions (collectively, the "Civil Immigration Conditions") across a range of grant programs is arbitrary and capricious, exceeds its legal authority, and violates the Spending Clause. The Civil Immigration Conditions impose requirements that go well beyond the statutory purposes of the grant programs—which were not designed to further civil immigration enforcement—and exceed the limited bases on which DHS is permitted to withhold funding. Furthermore, the ambiguity of the conditions frustrates the

States' ability to know what they are being asked to agree to. DHS seeks to force the States into an untenable position: Either (1) accept unlawful conditions, allowing the federal government to conscript state and local officials to enforce federal immigration law and destroying trust between law enforcement and immigrant communities critical to public safety, or (2) forfeit lifesaving federal emergency preparedness and response funds, endangering the States and their residents.

8. Plaintiffs Illinois, California, New Jersey, Rhode Island, Colorado, Connecticut, Delaware, Hawai'i, Maine, Maryland, Massachusetts, the People of the State of Michigan, Minnesota, Nevada, New Mexico, New York, Oregon, Vermont, Washington and Wisconsin (collectively, "Plaintiff States") bring this action to challenge the adoption of the illegal and unconstitutional Civil Immigration Conditions. Plaintiff States receive over \$3 billion annually from FEMA to prepare for and respond to emergencies and major disasters—*all* of which is placed in jeopardy by DHS's sweeping new conditions. Plaintiff States seek a declaratory judgment that Defendants' adoption of the Civil Immigration Conditions was unlawful, as well as prospective relief stopping Defendants from taking any actions to implement or enforce the Civil Immigration Conditions in connection with any grant program administered by DHS or a DHS sub-agency.

### **JURISDICTION AND VENUE**

9. The Court has jurisdiction pursuant to 28 U.S.C. § 1331. The Court has authority to grant declaratory, injunctive, and other relief pursuant 28 U.S.C. §§ 2201-2202 and 5 U.S.C. §§ 702, 705, and 706.

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1391(e)(1). Defendants include a United States officer sued in her official capacity. Plaintiff the State of Rhode Island is a resident of this judicial district and a substantial part of the events or omissions giving rise to this Complaint occurred within the District of Rhode Island.

## **PARTIES**

### **A. Plaintiffs**

11. Plaintiff the State of Illinois, represented by and through its Attorney General Kwame Raoul, is a sovereign State of the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on its behalf of the State in this matter.

12. Plaintiff the State of California, represented by and through its Attorney General Rob Bonta, is a sovereign state in the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on its behalf of the State in this matter

13. Plaintiff the State of New Jersey, represented by and through its Attorney General, Matthew J. Platkin, is a sovereign State of the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on its behalf of the State in this matter. The Attorney General is also head of the New Jersey Department of Law and Public Safety, which is the agency responsible for applying for, obtaining, and disbursing several of the federal grant awards that are the subject of this litigation. See N.J. Stat. Ann. § 52:17B-2.

14. Plaintiff the State of Rhode Island, represented by and through its Attorney General Peter F. Neronha, is a sovereign State of the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on its behalf of the State in this matter.

15. Plaintiff the State of Colorado is a sovereign state in the United States of America. Colorado is represented by Phil Weiser, the Attorney General of Colorado. The Attorney General acts as the chief legal representative of the state and is authorized by Colo. Rev. Stat. § 24-31-101 to pursue this action.

16. Plaintiff the State of Connecticut is a sovereign state of the United States of America. Connecticut is represented by and through its chief legal officer, Attorney General

William Tong, who is authorized under General Statutes § 3-125 to pursue this action on behalf of the State of Connecticut.

17. Plaintiff the State of Delaware is a sovereign state in the United States of America. Delaware is represented by Attorney General Kathy Jennings, who is the chief law enforcement officer of Delaware.

18. Plaintiff the State of Hawai‘i is a sovereign State of the United States of America. Hawai‘i is represented by Attorney General Anne Lopez, who is the chief law enforcement officer of Hawai‘i.

19. Plaintiff the State of Maine is a sovereign State of the United States of America. Maine is represented by Attorney General Aaron Frey who is the chief law enforcement officer of Maine.

20. Plaintiff the State of Maryland is a sovereign state of the United States of America. Maryland is represented by Attorney General Anthony G. Brown who is the chief legal officer of Maryland.

21. Plaintiff the Commonwealth of Massachusetts is a sovereign state of the United States of America. Massachusetts is represented by Attorney General Andrea Joy Campbell, who is the chief law enforcement officer of Massachusetts.

22. The People of the State of Michigan are represented by Attorney General Dana Nessel. The Attorney General is Michigan’s chief law enforcement officer and is authorized to bring this action on behalf of the People of the State of Michigan pursuant to Mich. Comp. Laws § 14.28.

23. Plaintiff the State of Minnesota is a sovereign state in the United States of America. Minnesota is represented by Keith Ellison, the Attorney General of the State of Minnesota. The

Attorney General's powers and duties include acting in federal court in matters of State concern. Minn. Stat. § 8.01.

24. Plaintiff the State of Nevada, represented by and through Attorney General Aaron D. Ford, is a sovereign State within the United States of America. The Attorney General is the chief law enforcement of the State of Nevada and is authorized to pursue this action under Nev. Rev. Stat. 228.110 and Nev. Rev. Stat. 228.170.

25. Plaintiff the State of New Mexico is a sovereign state in the United States of America. New Mexico is represented by Attorney General Raúl Torrez, who is the chief law enforcement officer of New Mexico authorized by N.M. Stat. Ann. § 8-5-2 to pursue this action.

26. Plaintiff the State of New York, represented by and through its Attorney General Letitia James, is a sovereign State of the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on its behalf of the State in this matter

27. Plaintiff the State of Oregon, represented by and through its Attorney General Dan Rayfield, is a sovereign State of the United States of America. As the State's chief legal officer, the Attorney General is authorized to act on behalf of the State in this matter.

28. Plaintiff the State of Vermont is a sovereign State of the United States of America. Vermont is represented by Attorney General Charity Clark, who is the chief law enforcement officer and is authorized by law to initiate litigation on behalf of the State.

29. Plaintiff the State of Washington, represented by and through its Attorney General, Nicholas W. Brown, is a sovereign state of the United States of America. The Attorney General of Washington is the chief legal advisor to the State and is authorized to act in federal court on behalf of the State on matters of public concern. Chapter 43.10 RCW.

30. Plaintiff the State of Wisconsin is a sovereign state in the United States of America. Wisconsin is represented by Josh Kaul, the Attorney General of Wisconsin. Attorney General Kaul is the chief law enforcement officer of Wisconsin and is authorized to sue on behalf of the State.

31. Plaintiff States have standing to bring this action because Defendants' imposition of the Civil Immigration Conditions that are the subject of this action harms the States' sovereign, proprietary, and quasi-sovereign interests and will continue to cause injury unless and until enforcement of this policy is permanently enjoined.

**B. Defendants**

32. Defendant Federal Emergency Management Agency ("FEMA") is a federal agency within DHS that coordinates operational and logistical disaster response and oversees the administration of many of the federal grant programs at issue in this action.

33. Defendant DHS is an agency and executive department of the United States government and has responsibility for implementing the federal grant programs at issue in this action, including through FEMA, the United States Coast Guard ("USCG"), and other subagencies.

34. Defendant USCG is a military service and branch of the armed forces of the United States that operates as a service in DHS unless Congress or the President directs it to operate as a service in the United States Navy.

35. Defendant David Richardson is the Senior Official Performing the Duties of the Administrator of FEMA (the "Interim FEMA Head"). The Interim FEMA Head is sued in his official capacity.

36. Defendant Kristi Noem (the "DHS Secretary") is the United States Secretary of Homeland Security and the federal official in charge of DHS. The DHS Secretary is sued in her official capacity.

37. Defendant Admiral Kevin E. Lunday is the Acting Commandant of the United States Coast Guard (the “Acting Commandant”). The Acting Commandant is sued in his official capacity.

### ALLEGATIONS

**A. Congress Has For Decades Supported State Emergency Preparedness, Response, and Recovery, and States and Their Residents Rely Heavily on That Support.**

38. The federal government has provided disaster relief funding to States since at least the enactment of the Federal Disaster Relief Act of 1950, which Congress passed to “provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate suffering and damage resulting from major disasters, to repair essential public facilities in major disasters and to foster the development of such State and local organization and plans to cope with major disasters as may be necessary.” Pub. L. No. 81-875, § 1, 64 Stat. 1109, 1109. The 1950 law authorized the President to coordinate efforts among federal agencies generally rather than creating a specific federal disaster relief agency. *See* 42 U.S.C. § 1855d (1952).

39. Since 1950, Congress has steadily expanded the federal government’s role in assisting with state and local emergency management. In a series of successive enactments in the 1960s and 1970s, Congress authorized additional assistance to state and local governments for this purpose. *See, e.g.*, Disaster Relief Act of 1966, Pub. L. 89-769, 80 Stat. 1316; Disaster Relief Act of 1969, Pub. L. 91-79, 83 Stat. 125; Disaster Relief Act of 1970, Pub. L. 91-606, 84 Stat. 1744; Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143. In 1988, Congress formally renamed the federal law establishing the structure for federal and State cooperation in emergency management the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or the Stafford Act. Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707, 102 Stat. 4689.

40. In 1979, FEMA was established to consolidate all federal support for emergency preparedness, mitigation, and response activities under one agency’s purview. Today, FEMA is a distinct entity within DHS. *See* 6 U.S.C. §§ 313(a); 316(a). By law, the DHS Secretary “may not substantially or significantly reduce . . . the authorities, responsibilities, or functions of [FEMA] or the capability of [FEMA] to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after October 4, 2006.” *Id.* § 316(c)(1); *see also id.* § 591h(c) (“Nothing in this title or any other provision of law may be construed to affect or reduce the responsibilities of the Federal Emergency Management Agency or the Administrator of the Agency, including the diversion of any asset, function, or mission of the Agency or the Administrator of the Agency.”).

41. Consistent with the structure created by Congress over the course of many decades, Plaintiff States today rely on federal grants as a critical tool to support their efforts to mitigate, prepare for, respond to, and recover from catastrophic events like natural disasters and malicious attacks.

42. State emergency management budgets are largely committed to preexisting priorities—including, for example, emergency management staff. Indeed, many federal grants may be used only to support activities that are not already directly funded by the State. Federal grants therefore typically support disaster management initiatives that would not exist but for the federal grant funds and would disappear without them.

43. These federal grant programs, which are administered by FEMA, fall into three categories: (1) “preparedness” grants, which enable States and local governments to put systems in place to prepare for and respond to security threats and emergencies, (2) “disaster relief” grants, which are tied to a presidential declaration of a major disaster and enable States and other recipients

to respond to and recover from such disasters, and (3) “mitigation” grants, which enable States and others to prepare for natural disasters (including floods and fires) and other threats.<sup>1</sup>

44. Other sub-agencies of DHS, including the USCG, also administer several grant programs on which Plaintiff States rely, including grants to assist States in waterway safety management.

### **1. Preparedness Grants**

45. FEMA’s “preparedness grant programs” annually provide “more than two billion dollars in funding to state, local, tribal Nations, and territorial governments, as well as transportation authorities, nonprofit organizations, and other eligible entities.” *Simplifying FEMA Preparedness Grants*, 88 Fed. Reg. 62098, 62099 (2023). “For decades, FEMA has provided federal assistance to aid states in building and sustaining capabilities to measurably improve the nation’s readiness in preventing, preparing for, protecting against, and responding to terrorist attacks and other hazards.” *Id.* at 62098-99. Over a dozen different preparedness programs help States reduce the risk of terrorism and extremist violence, maintain general emergency management capabilities, and address emerging threats like cyber-attacks. *Id.* at 62099.

46. Congress created many of the preparedness grant programs in direct response to the horrific events of September 11, 2001. The USA PATRIOT Act, enacted on October 26, 2001, established a grant program to allow States “to prepare for and respond to terrorist acts,” Pub. L. 107-56, § 1014, 115 Stat. 272, 399, which was the precursor to the Homeland Security Grant Program, *infra* ¶¶ 50-80. The Maritime Transportation Security Act of 2002 created the Port Security Grant Program, *infra* ¶¶ 122-34, to prevent security incidents at the nation’s ports. *See*

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<sup>1</sup> Below, Plaintiff States discuss many of the grant programs on which they rely most heavily. But the discussion below is not exhaustive, and Plaintiff States seek an injunction against enforcement of the challenged conditions as to all grants that defendants administer, not merely those discussed here.

Pub. L. 107-295, § 102, 116 Stat. 2064, 2075 (codified as amended at 46 U.S.C. § 70107). In 2006, as part of a comprehensive reorganization of FEMA in the wake of Hurricane Katrina, Congress permanently lodged all preparedness programs within FEMA. *See* Homeland Security Act of 2002, Pub. L. 107-296, § 430, 116 Stat. 2135, 2191 (creating the Office for Domestic Preparedness); Post-Katrina Emergency Management Reform Act of 2006, Pub. L. 109-295, tit. VI, § 611, 120 Stat. 1355, 1400 (codified at 6 U.S.C. § 315(a)(2)) (transferring these functions to FEMA).

47. Congress expanded the preparedness programs in 2007 with comprehensive legislation “[t]o provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States,” informally known as the 9/11 Commission. *See* Pub. L. 110-53, 121 Stat. 266. This law, once again passed in direct response to the September 11 attacks, brought together and made permanent the Homeland Security Grant Program and the Emergency Management Performance Grants. *See* Pub. L. 110-53, §§ 101, 201, 121 Stat. 266, 271, 294; *infra* ¶¶ 50-93. Through appropriations laws since 2004, Congress has also funded a program to assist nonprofit organizations, including religious organizations, “at high risk of international terrorist attack,” Pub. L. 108-334, 118 Stat. 1298, 1309; *infra* ¶¶ 109-21. The Securing American Nonprofit Organizations Against Terrorism Act of 2019 expanded and made permanent this Nonprofit Security Grant Program. Pub. L. 116-108, 133 Stat. 3294.

48. As a result of these congressional actions, today Plaintiff States critically rely on federal preparedness grant programs, including the Homeland Security Grant Program – State Homeland Security Program, the Homeland Security Grant Program – Urban Area Security Initiative, the Emergency Management Performance Grant Program, the State and Local Cybersecurity Grant Program, the Nonprofit Security Grant Program, and the Port Security Grant Program. Plaintiff States receive over \$1 billion annually in funding from FEMA preparedness grants.

49. FEMA typically releases notices of funding opportunities for preparedness grants around April or May of the federal fiscal year for the grant in question, and States then apply for funding by submitting applications. The federal government's fiscal year runs from October 1 to September 30 of the following year.

**a. The Homeland Security Grant Program – State Homeland Security Program (“SHSP”)**

50. Homeland Security Grant Program – State Homeland Security Program (“SHSP”) grants exist to provide federal funding to States to build the necessary capacity to prevent, prepare for, protect against, and respond to acts of terrorism.

51. SHSP funds have been available to States since the first version of the program was created by the USA PATRIOT Act in 2001. The program is codified at 6 U.S.C. §§ 603, 605-09.

52. FEMA is required to allocate SHSP funds pursuant to a risk assessment, which determines each State's relative threat, vulnerability, and consequences from acts of terrorism, considering factors such as population density and history of threats. *Id.* § 608(a)(1). Recipients may then use SHSP funds for uses permitted by statute, such as enhancing homeland security, conducting training exercises, upgrading equipment, or paying salaries. *Id.* § 609(a).

53. Because SHSP grants are formula grants based on a statutory risk formula, not competitive grants, each State is entitled to a minimum and specific allocation based on the risk assessment whenever a notice of funding opportunity is posted.

54. The FEMA Administrator “shall ensure” that each State receives no less than an amount equal to 0.35 percent of the total funds Congress appropriated for SHSP grants. *Id.* § 605(e)(1)(A)(v).

55. The SHSP statutes do not authorize DHS to impose any of the Civil Immigration Conditions on SHSP funding.

56. States collectively receive hundreds of millions of dollars per year in SHSP grants. They use these funds for myriad counterterrorism and emergency preparedness purposes, including, but not limited to, funding State special operations command teams (including SWAT teams and bomb squads) and funding mutual aid networks of police departments, fire departments, emergency services, and public works departments to mobilize first responders from outside an immediate jurisdiction in the event of a disaster.

57. SHSP funds allow States to advance counterterrorism and emergency preparedness purposes in ways they otherwise could not. The multijurisdictional emergency response organizations funded by SHSP would be forced to shut down absent federal funding.

58. Because each SHSP grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support program activities in at least the two years thereafter, many Plaintiff States are currently relying on funding from the SHSP awards for Federal Fiscal Years (“FY”) 2021-2024.

59. As an example of how States use SHSP funding, Rhode Island uses SHSP funding for several specialized teams that are the only personnel in Rhode Island with the expertise and training to respond to incidents such as a wilderness search and rescue, attacks involving a weapon of mass destruction or an explosive device, or a terrorist attack at a port.

60. Similarly, Illinois has used its SHSP funding for a wide range of initiatives that prevent, prepare for, protect against, and respond to acts of terrorism. Those efforts include first responder mutual aid networks, which coordinate terrorism responses from outside an immediate jurisdiction. SHSP funds also support the Illinois Statewide Terrorism and Intelligence Center, which facilitates communication across jurisdictions between public safety officials regarding national terrorism trends. SHSP funds also pay for the Illinois State Police’s SWAT and Statewide Weapons of Mass Destruction Team.

61. New Jersey has used its SHSP funding to fund the salaries of state agency staff who provide cybersecurity training, plan risk mitigation efforts, and combat domestic violent extremism. SHSP funds have also enabled the development and maintenance of several technological systems, including automated license plate recognition, unmanned aircraft detection, and the New Jersey Interoperability Communications System, which is a statewide radio system designed to strengthen communication among local, county, state, and federal first responders.

62. Furthermore, New York has used SHSP funds to administer and manage terrorism and targeted violence prevention grants and 12 local FBI-certified bomb squads to detect and respond to explosive incidents throughout the State. SHSP funding has also been critical in New York's establishment of local specialty teams, including explosive detection canine teams, tactical teams, and HazMat teams. SHSP funding supports the operations of the State's only fusion center, the New York State Intelligence Center (NYSIC). This funding is critical to supporting incident command operations, radiation interdiction efforts, cybersecurity activities, and weapons of mass destruction programs and staffing for intelligence analysts. In addition, SHSP funding supports citizen preparedness initiatives across the State, and New York has used SHSP funds to reduce vulnerabilities in crowded open spaces.

63. Plaintiff States were allocated the following in SHSP funds since FY2021 as shown in Table 1 below:

**Table 1: SHSP Allocations to Plaintiff States in FY2021-2024<sup>2</sup>**

<b>Plaintiff State</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
<b>California</b>	\$59,220,807	\$57,035,623	\$57,035,623	\$51,332,060
<b>Colorado</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750

<sup>2</sup> This chart is prepared based on allocations set out by FEMA in its annual Notices of Funding Opportunity. Actual awarded amounts may vary slightly.

<b>Connecticut</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Delaware</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Hawai'i</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Illinois</b>	\$14,427,260	\$13,894,910	\$13,894,910	\$12,505,419
<b>Maine</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Maryland</b>	\$7,345,897	\$7,074,841	\$7,074,841	\$6,367,357
<b>Massachusetts</b>	\$6,428,138	\$6,190,947	\$6,190,947	\$5,571,852
<b>Michigan</b>	\$5,280,222	\$5,085,387	\$5,085,387	\$4,576,849
<b>Minnesota</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Nevada</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>New Jersey</b>	\$7,345,897	\$7,074,841	\$7,074,841	\$6,367,357
<b>New Mexico</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>New York</b>	\$70,639,800	\$68,033,267	\$68,033,267	\$61,229,940
<b>Oregon</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Rhode Island</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Vermont</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>Washington</b>	\$6,428,138	\$6,190,947	\$6,190,947	\$5,571,852
<b>Wisconsin</b>	\$4,602,500	\$4,847,500	\$4,847,500	\$4,362,750
<b>TOTAL</b>	\$232,346,159	\$228,750,763	\$228,750,763	\$205,875,686

64. Plaintiff States have been applying for and obtaining SHSP funds every year since the program was established during the Bush Administration.

65. Plaintiff States intend to apply for SHSP funds in FY2025.

**b. Homeland Security Grant Program – Urban Area Security Initiative (“UASI”)**

66. Homeland Security Grant Program – Urban Area Security Initiative (“UASI”) grants serve the same overall purposes as SHSP grants. These funds are used to build necessary capacity to prevent, prepare for, protect against, and respond to acts of terrorism but with a focus on high-threat, high-density urban areas.

67. UASI funds have been available to States since the first version of the program was created by appropriations statute in 2003. *See* Pub. L. 108-90, 117 Stat. 1137, 1146. The program is codified at 6 U.S.C. §§ 603-04, 606-09.

68. FEMA is required to follow considerations set in statute to determine the relative threat, vulnerability, and consequences from acts of terrorism faced by metropolitan areas to designate high-risk urban areas that may submit applications for UASI grants. *Id.* §§ 604(b)(3). FEMA is required to allocate UASI funds pursuant to a risk assessment, which determines each high-risk urban area’s relative threat, vulnerability, and consequences from acts of terrorism, considering factors such as population density and history of threats. *Id.* § 608(a)(1).

69. Because UASI grants are formula grants based on a statutory risk formula, not competitive grants, each eligible State is entitled to a specific allocation based on the risk assessment whenever a notice of funding opportunity is posted, tied to the FEMA-designated eligible urban area or areas in that State.

70. Recipients must use UASI funds for permitted uses, such as enhancing homeland security, conducting training exercises, upgrading equipment, or paying salaries. *Id.* § 609(a). None of the permitted uses include civil immigration enforcement.

71. States that receive UASI funds must provide the high-risk urban area with at least 80% of the grant funds. *Id.* § 604(d)(2)(A). Any funds retained by the State shall be expended on items, services, or activities that benefit the high-risk urban area. *Id.*

72. The UASI statutes do not authorize DHS to impose any of the Civil Immigration Conditions on UASI funding.

73. States collectively receive hundreds of millions of dollars per year in UASI grants, passing most of these funds along to the high-risk urban areas. States and the local government entities they pass these funds to use UASI funds for myriad counterterrorism and emergency preparedness purposes, including support for urban fusion centers, SWAT teams, canine units, and bomb squads.

74. UASI funds allow States and local government entities to advance counterterrorism and emergency preparedness purposes in ways they otherwise could not.

75. Because each UASI grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support program activities in at least the two years thereafter.

76. As an example of how States use UASI funding, Illinois has one eligible high-threat, high-density urban area, the Chicago metropolitan statistical area. Illinois passes approximately 90% of UASI funds on to fire departments, law enforcement, other first responders, and emergency preparedness offices in the greater Chicago area. These funds provide critical funding for the Chicago Office of Emergency Management, the Chicago Crime Prevention and Intelligence Center, and the Cook County Department of Emergency Management and Regional Security. Chicago uses UASI funds for preparedness purposes including, but not limited to, replacing and sustaining its stock of respirators necessary for mass casualty incidents, maintaining training for fire department special operations teams, and developing policy and training regarding active shooters and coordinated terrorist attack scenarios.

77. Similarly, New Jersey passes UASI funds through to seven contiguous counties in the New York City metropolitan area, including the major cities of Newark and Jersey City, eight

medical centers in urban areas throughout the state, and six State-level agencies that perform preparedness work in service of those geographic areas. New Jersey has used UASI funds to enhance urban search and rescue, including training and equipment and gear upgrades and replacements.

78. Plaintiff States eligible for UASI funding were allocated the following in UASI funds since FY2021 as shown in Table 2 below:

**Table 2: UASI Allocations to Plaintiff States in FY2021-2024<sup>3</sup>**

<b>Plaintiff State</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
<b>California</b>	\$135,350,000	\$133,877,000	\$132,063,095	\$118,534,552
<b>Colorado</b>	\$3,900,000	\$3,900,000	\$3,900,000	\$3,500,484
<b>Hawai'i</b>	\$3,800,000	-	\$1,500,000	\$1,346,340
<b>Illinois</b>	\$68,000,000	\$67,182,000	\$66,174,270	\$59,395,378
<b>Maryland</b>	\$4,250,000	\$3,800,000	\$3,800,000	\$3,410,728
<b>Massachusetts</b>	\$16,900,000	\$16,900,000	\$16,646,500	\$14,941,233
<b>Michigan</b>	\$5,250,000	\$5,250,000	\$5,250,000	\$4,712,190
<b>Minnesota</b>	\$5,250,000	\$5,250,000	\$5,250,000	\$4,712,190
<b>Nevada</b>	\$5,250,000	\$4,847,500	\$5,250,000	\$4,712,190
<b>New Jersey</b>	\$19,050,000	\$18,915,000	\$18,631,275	\$16,722,687
<b>New York</b>	\$178,750,000	\$176,599,000	\$173,950,017	\$156,131,176
<b>Oregon</b>	\$3,800,000	\$3,800,000	\$3,800,000	\$3,410,728
<b>Washington</b>	\$6,250,000	\$6,250,000	\$6,250,000	\$5,609,750
<b>TOTAL</b>	\$455,800,000	\$446,570,500	\$442,465,157	\$396,790,186

<sup>3</sup> This chart is based on amounts allocated by FEMA in its annual Notices of Funding Opportunity. Actual awarded amounts may vary slightly.

79. Eligible Plaintiff States have been applying for and obtaining UASI funds every year since the program was established during the Bush Administration.

80. Eligible Plaintiff States intend to apply for UASI funds in FY2025.

**c. Emergency Management Performance Grant Program (“EMPG”)**

81. The Emergency Management Performance Grant Program (“EMPG”) provides federal funding to States to assist state, local, tribal, and territorial emergency management agencies in implementing FEMA’s National Preparedness System, including by building continuity-of-government capabilities to ensure essential functions in a catastrophic disaster.

82. EMPG funds have been available to States since an initial appropriation for the program in 2003. *See* Pub. L. 108-7, 117 Stat. 11, 516. The program is now codified at 6 U.S.C. § 762 after being made permanent by the Post-Katrina Emergency Management Reform Act of 2006.

83. FEMA’s allocation of EMPG funds is set by statutory formula. For each year’s apportioned amount of EMPG, FEMA must allocate to certain territories a baseline amount of 0.25 percent of the appropriated funds and to the States a baseline amount of 0.75 percent of the appropriated funds. *Id.* § 762(d)(1). FEMA must apportion the remaining amount among the States on a population-share basis. *Id.* § 762(d)(2).

84. Because EMPG grants are formula grants and not competitive grants, each State is entitled to a specific allocation whenever a notice of funding opportunity is posted.

85. The EMPG statute does not authorize DHS to impose any of the Civil Immigration Conditions on EMPG funding.

86. States collectively receive hundreds of millions of dollars per year in EMPG grants. They use these funds for emergency preparedness purposes, including funding the salaries of

operations personnel who coordinate disaster response efforts and funding communications, facilities, and vehicles used for disaster response.

87. EMPG funds allow States to advance emergency preparedness purposes in ways they otherwise could not. States would otherwise not be able to employ the emergency management staff funded by EMPG funds, severely diminishing States' ability to coordinate a disaster response.

88. Because each EMPG grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support program activities in at least the two years thereafter.

89. States use EMPG funding for a wide range of emergency response programming. For instance, EMPG dollars fund the salaries of state agency personnel who lead statewide coordination efforts in response to a natural disaster or mass casualty event, such as state emergency operations plans, hurricane response plans, severe weather plans and procedures. The EMPG program also funds communications, facilities, and vehicles for disaster response in State-level agencies. EMPG monies also fund the ongoing costs of the software program used at the state emergency operations centers, which are the physical location where a state emergency manager directs all strategic and operational activities in the event of a disaster or public health emergency. For example, Rhode Island uses EMPG funds to lead statewide coordination efforts in response to disasters or mass casualty events. EMPG funds pay for communications, facilities, vehicles and equipment for disaster response.

90. States also pass through EMPG funds to localities who likewise fund the salaries of local emergency managers and local support staff statewide as well as software and communications to support local emergency response. For instance, California distributes EMPG

funding to 59 local government entities and tribes to improve and fill critical gaps for existing emergency management systems.

91. Plaintiff States were allocated the following in EMPG funds since FY2021 as shown in Table 3 below:

**Table 3: EMPG Allocations to Plaintiff States in FY2021-2024<sup>4</sup>**

<b>Plaintiff State</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
<b>California</b>	\$27,840,216	\$31,711,205	\$27,342,079	\$24,465,792
<b>Colorado</b>	\$6,376,806	\$7,224,682	\$6,355,283	\$5,725,277
<b>Connecticut</b>	\$4,937,370	\$5,652,584	\$4,955,472	\$4,444,987
<b>Delaware</b>	\$3,293,610	\$3,755,425	\$3,306,466	\$2,980,703
<b>Hawai'i</b>	\$3,562,346	\$4,092,884	\$3,573,185	\$3,209,100
<b>Illinois</b>	\$10,712,809	\$12,329,319	\$10,618,545	\$9,504,284
<b>Maine</b>	\$3,525,978	\$4,025,503	\$3,538,497	\$3,186,775
<b>Maryland</b>	\$6,535,466	\$7,517,313	\$6,560,623	\$5,896,691
<b>Massachusetts</b>	\$7,071,260	\$8,135,699	\$7,077,439	\$6,361,781
<b>Michigan</b>	\$9,036,574	\$10,345,728	\$9,007,410	\$8,081,267
<b>Minnesota</b>	\$6,280,633	\$7,175,934	\$6,277,669	\$5,646,155
<b>Nevada</b>	\$4,669,562	\$5,289,011	\$4,671,913	\$4,205,403
<b>New Jersey</b>	\$8,343,188	\$9,774,016	\$8,518,986	\$7,658,501
<b>New Mexico</b>	\$4,009,589	\$4,573,158	\$3,998,839	\$3,593,811
<b>New York</b>	\$15,029,265	\$17,687,743	\$15,105,029	\$13,481,216
<b>Oregon</b>	\$5,375,140	\$6,110,421	\$5,343,682	\$4,793,987

<sup>4</sup> This chart is based on amounts allocated by FEMA in its annual Notices of Funding Opportunity. Actual awarded amounts may vary slightly.

<b>Rhode Island</b>	\$3,338,580	\$3,833,335	\$3,354,105	\$3,016,993
<b>Vermont</b>	\$3,061,159	\$3,503,868	\$3,071,660	\$2,762,968
<b>Washington</b>	\$7,582,922	\$8,625,483	\$7,585,716	\$6,821,397
<b>Wisconsin</b>	\$6,392,753	\$7,311,711	\$6,388,552	\$5,744,163
<b>TOTAL</b>	\$146,975,226	\$168,675,022	\$146,651,150	\$131,581,251

92. Plaintiff States have applied for and obtained EMPG funds every year since the program was established.

93. Plaintiff States intend to apply for EMPG funds in FY2025.

**d. State and Local Cybersecurity Grant Program (“SLCGP”)**

94. The State and Local Cybersecurity Grant Program (“SLCGP”) provides federal funding to States to manage and reduce cyber risk.

95. SLCGP funds have been available to States since the program was created by 2021 Infrastructure Investment and Jobs Act. The program is codified at 6 U.S.C § 665g.

96. FEMA is required to allocate SLCGP funds on a population-share basis. *Id.* § 665g(l).

97. Because SLCGP grants are formula grants and not competitive grants, each State is entitled to a specific allocation whenever a notice of funding opportunity is posted.

98. The SLCGP statute does not authorize DHS to impose any of the Civil Immigration Conditions on SLCGP funding.

99. States collectively receive hundreds of millions of dollars per year in SLCGP grants. They use these funds for cybersecurity purposes, including funding critical infrastructure necessary to detect cyber threats.

100. SLCGP funds allow States to provide cybersecurity defenses in ways they otherwise could not. States do not have a substitute source of cyber defense funding if SLCGP dollars are cut off.

101. Because each SLCGP grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support program activities in at least the two years thereafter.

102. As an example of how States use SLCGP funds, Illinois has used its SLCGP funding for a wide range of cybersecurity programming. Illinois passes all its SLCGP dollars to the Illinois Department of Information Technology, which in turn passes the funds entirely on to local governments in Illinois. These local governments use the funds to strengthen their cyber defenses, improve incident response capabilities, and protect critical infrastructure from evolving cyber threats. For example, the funds are used to develop endpoint detection software, which continuously monitors the activities on all physical devices connected to a network to detect threats as early as possible. In Illinois, SLCGP funds also support penetration testing, which involves hiring cybersecurity experts to attempt to break into a computer network to identify vulnerabilities before an attack happens.

103. Similarly, New Jersey has used its SLCGP funding to establish a unified cybersecurity strategy statewide, guided by the Cybersecurity and Communications Integration Cell of the New Jersey Office of Homeland Security and Preparedness. Under this unified approach, the State-level agency provides equipment and services for state and local entities to enhance the State's cyber response.

104. Washington also passes on most of its SLCGP funds to local governments, and the City of Everett has used SLCGP funds to install advanced network monitoring systems and next-

generation firewalls to protect the City's water and wastewater plants. These upgrades have made it more difficult for hackers to infiltrate some of the City's most critical infrastructure.

105. California's Cybersecurity Integration Center formed a subcommittee to develop a state cybersecurity plan to guide its SLCGP funding allocations. California's plan includes expanding cybersecurity protections to small and rural local governments, where cybersecurity programs are often nonexistent and basic IT functions are limited.

106. Plaintiff States were allocated the following in SLCGP funds since FY2022 as shown in Table 4 below:

**Table 4: SLCGP Allocations to Plaintiff States in FY2021-2024<sup>5</sup>**

<b>Plaintiff State</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
<b>California</b>	\$7,981,997	\$15,879,497	\$11,845,702
<b>Colorado</b>	\$3,234,143	\$6,553,216	\$4,791,605
<b>Connecticut</b>	\$2,681,116	\$5,465,875	\$4,122,302
<b>Delaware</b>	\$2,224,803	\$4,546,985	\$3,377,360
<b>Hawai'i</b>	\$2,243,739	\$4,567,336	\$3,469,262
<b>Illinois</b>	\$4,404,622	\$8,834,866	\$6,724,174
<b>Maine</b>	\$2,666,932	\$5,439,273	\$4,038,646
<b>Maryland</b>	\$3,214,008	\$6,514,533	\$4,924,161
<b>Massachusetts</b>	\$3,173,589	\$6,419,112	\$4,816,189
<b>Michigan</b>	\$4,777,219	\$9,609,530	\$7,178,365
<b>Minnesota</b>	\$3,606,482	\$7,270,657	\$5,474,363
<b>Nevada</b>	\$2,488,375	\$5,072,822	\$4,205,403

<sup>5</sup> This chart is based on amounts allocated by FEMA in its annual Notices of Funding Opportunity. Actual awarded amounts may vary slightly.

<b>New Jersey</b>	\$3,380,963	\$6,858,348	\$5,184,599
<b>New Mexico</b>	\$2,540,767	\$5,178,907	\$3,893,800
<b>New York</b>	\$5,813,554	\$11,588,894	\$8,723,252
<b>Oregon</b>	\$2,988,975	\$6,047,316	\$4,515,523
<b>Rhode Island</b>	\$2,190,484	\$4,467,229	\$3,326,808
<b>Vermont</b>	\$2,310,302	\$4,717,850	\$3,530,689
<b>Washington</b>	\$3,667,735	\$7,403,503	\$5,546,984
<b>Wisconsin</b>	\$3,795,634	\$7,666,939	\$5,806,564
<b>TOTAL</b>	\$69,385,439	\$140,102,688	\$105,495,751

107. Plaintiff States have applied for and obtained SLGCP funds every year since the program was established.

108. Plaintiff States intend to apply for SLCGP funds in FY2025.

**e. Nonprofit Security Grant Program (“NSGP”)**

109. The Nonprofit Security Grant Program (“NSGP”) provides federal funding to States to help nonprofits in those States increase the physical security of their facilities at risk of a terrorist or other extremist attack. The program was created in response to concerns that nonprofit organizations, particularly religious institutions, have faced increasing threats from extremists and other violent organizations.

110. NSGP funds have been available to States since the program was created by legislative appropriation in 2004. Pub. L. 108-334, 118 Stat. 1298, 1309. The program is now codified at 6 U.S.C. § 609a.

111. Nonprofit organizations eligible to participate in the NSGP are generally organizations exempt from tax under section 501(c)(3) of the Internal Revenue Code, such as

houses of worship, museums, educational facilities, senior centers, community centers, and day camps.

112. Eligible nonprofit organizations submit an application to their State, describing the nature of the threats they face, and then States apply to FEMA for NSGP funds on behalf of the eligible nonprofit organizations.

113. Each State is entitled to a target allocation of statewide NSGP funds each fiscal year, with the States submitting enough projects to exhaust this target allocation. The available funds are distributed among eligible nonprofits based on a competitive scoring process. Additional high-risk urban area funding is available on a competitive basis. Multiple Plaintiff States apply for both their baseline allocation and additional competitive funds each year.

114. NSGP fund recipients may use the funds for uses permitted by statute, including target hardening activities, fees for security training, and security personnel costs. *Id.* § 609a(c)(1).

115. The NSGP statutes do not authorize DHS to impose any of the Civil Immigration Conditions on NSGP funding.

116. States collectively receive hundreds of millions of dollars per year in NSGP grants. They use these funds for myriad nonprofit security purposes, including, but not limited to, funding security systems and physical building improvements. NSGP funds allow States to advance nonprofit security purposes in ways they otherwise could not. Nonprofit organizations generally lack other sources of funds to implement such improvements, and a funding cut-off would significantly hinder efforts to safeguard vulnerable faith-based and civic organizations during a period of heightened risk of violence motivated by developing domestic and global events.

117. Because each NSGP grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support nonprofit security programming in at least the two years thereafter.

118. The States have used their NSGP funding for a wide range of initiatives that bolster nonprofit security. Those efforts include support for thousands of nonprofit organization sites, including religious institutions and private schools, at risk of being targeted by violent extremists. Recipients of NSGP funds include synagogues and Jewish Day Schools facing the risk of antisemitic violence. The grant program has also supported security measures for churches, mosques, and secular organizations that face violent threats. NSGP funds have gone to security measures such as public address systems to be used in an emergency, security systems, physical building improvements to mitigate damage from explosions and impacts, bulletproof glass, bollards and other physical barriers, and screening equipment for packages and people such as metal detectors. As one example, recent NSGP awards have been used to help synagogues in the New York City-area to purchase security cameras, hire security guards, and install fencing.

119. Multiple Plaintiff States rely on funding from NSGP awards to protect non-profit institutions. For example, in FY 2024, Plaintiff States collectively relied on over \$100 million in NSGP funds, including in excess of \$43 million for California, \$8 million for Colorado, \$4 million for Connecticut, \$24 million for Illinois, \$8 million for Maryland, \$8 million for Massachusetts, \$14 million for Michigan, \$8 million for Minnesota, \$7 million for New Jersey, \$2 million for New Mexico, \$44 million for New York, \$3 million for Oregon, \$2 million for Rhode Island, and \$7 million for Wisconsin.

120. Many Plaintiff States have applied for and obtained NSGP funds every year since the program was established during the Bush Administration.

121. Many Plaintiff States intend to apply for NSGP funds in FY2025.

**f. Port Security Grant Program (“PSGP”)**

122. The Port Security Grant Program (“PSGP”) provides federal funding to States to support increased port-wide risk management and protect critical marine transportation system infrastructure from acts of terrorism, major disasters, and other emergencies.

123. PSGP funds have been available to States since the program was created by the Maritime Transportation Security Act of 2002. The program is codified at 46 U.S.C. § 70107.

124. PSGP grants are awarded on a competitive basis as outlined in the pertinent notice of funding opportunity. Eligible funding must support an Area Maritime Security Program at one of the port areas designated for special security protections by the Secretary of Homeland Security.

125. Multiple Plaintiff States apply for this competitive grant on an annual basis.

126. The PSGP statute does not authorize DHS to impose any of the Civil Immigration Conditions on PSGP funding.

127. States collectively receive millions of dollars per year in PSGP grants. They use these funds to purchase and upgrade port security systems, including threat detection technology.

128. Because each PSGP grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support port security in at least the two years thereafter.

129. Illinois has used its PSGP funding to equip Lake Michigan patrol boats with tracking and navigation systems capable of detecting improvised explosive devices and unmanned aerial systems deployed over water. It has also used PSGP funds to purchase new patrol boats in the Port of St. Louis.

130. Illinois currently relies on funding from the PSGP awards for FY2023 and FY2024. For FY2023, Illinois received an award of \$75,000 for electronics upgrades to the four current Lake Michigan patrol boats. For FY 2024, Illinois received an award of \$600,000 to purchase a

new Lake Michigan patrol boat and an award of \$45,000 to upgrade equipment on a Port St. Louis patrol boat.

131. New Jersey relies on two PSGP awards each year, for its designated North and South port security areas. New Jersey has open awards for FYs 2022 to 2024. In FY 2023, New Jersey received a \$2,139,749 award for the North area and a \$372,842 award for the South area. In FY2024, New Jersey received a \$348,750 award for the North area and a \$464,250 award for the South area.

132. Washington relies on PSGP funds to patrol the Puget Sound region and respond quickly to emergencies occurring on the water, such as distressed boaters or an active shooter aboard a Washington State Ferry. For instance, Washington received a \$398,454 award in FY 2021 and a \$450,000 award in FY 2023, which it used to purchase critical marine assets, including a boat equipped with the ability to detect nuclear devices in Puget Sound. Washington intends to apply for a FY 2025 PSGP grant and to use those funds to train and equip its maritime police officers, who frequently support federal partners during high profile events in Seattle, such as the upcoming 2026 FIFA World Cup.

133. Many Plaintiff States have applied for and obtained PSGP funds every year since the program was established during the Bush Administration.

134. Many Plaintiff States intend to apply for PSGP funds in FY2025.

**g. Presidential Residence Protection Security Grant Program (“PRP”)**

135. The Presidential Residence Protection Security Grant Program (“PRP”) program provides federal funding to reimburse States for extraordinary law enforcement or other emergency personnel costs for protection activities directly and demonstrably associated with any residence of the President of the United States that is designated or identified to be secured by the United States Secret Service.

136. Because President Donald Trump has a residence in New Jersey, the State of New Jersey has applied for and received PRP funds for FY2017, FY2018, FY2019, FY2020, and FY 2021, corresponding to each of President Trump's first four years in office. In FY2017, New Jersey received \$281,821. In FY2018, New Jersey received \$186,683. In FY2019, New Jersey received \$234,693. In FY2020, New Jersey received \$295,080. In FY2021, New Jersey received \$6,646.

137. The statutes and regulations governing PRP do not authorize DHS to impose any of the Civil Immigration Conditions on PRP funding.

138. States collectively receive hundreds of thousands or millions of dollars per year in PRP grants. They use these funds to reimburse expended money spent on protection services at a non-governmental residence of the President as designated by the United States Secret Service.

139. Plaintiff New Jersey intends to apply for PRP funds in FY2025 to reimburse the State for funds expended for extraordinary protection activities directly associated with the President's New Jersey residence.

## **2. Disaster Relief Grants**

140. In addition to preparedness grants, FEMA administers grant programs tied to a presidential declaration of a major disaster or an emergency under the Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act").

141. Congress passed the Stafford Act in 1988 to "provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters." 42 U.S.C. § 5121(b).

142. Typically, a State's governor will request a major disaster declaration, and the President can either grant or deny the request. The governor's request "shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities

of the State and the affected local governments and that Federal assistance is necessary.” *Id.* § 5170; *see also id.* § 5191 (process for declaring an emergency).

143. FEMA has promulgated regulations to govern the disaster declaration process. *See* 44 C.F.R. § 206.31 *et seq.* The regulations include more detailed criteria for when FEMA recommends that the President declare a major disaster. *See id.* §§ 206.36(b)-(c), 206.37(c)(1), 206.48; *see also id.* § 206.35 (criteria for emergencies). These criteria relate exclusively to the severity of the disaster (in terms of monetary and non-monetary damages), the available resources to address it, and the history of pre-disaster mitigation efforts.

144. Congress specifically lists the actions a President may take in any major disaster, including directing any federal agency to utilize its resources for support, coordinating disaster relief, providing technical and advisory assistance, assisting in the distribution of supplies, assisting in inspections for building damage compliance, and providing accelerated federal assistance and support where necessary to save lives, prevent human suffering, and mitigate severe damage. *Id.* § 5170a. The Stafford Act does not authorize DHS to impose any of the Civil Immigration Conditions on post-disaster grant programs.

145. The FEMA regulations do not authorize DHS to impose any of the Civil Immigration Conditions on post-disaster grant programs.

146. FEMA issues grants under the Stafford Act pursuant to a range of different programs including the Public Assistance Program, the Disaster Case Management Program, the Hazard Mitigation Grant Program, and the Fire Management Assistance Grant Program.

147. FEMA grants issued under the Stafford Act are paid out from the Disaster Relief Fund, an appropriation against which FEMA can direct, coordinate, manage, and fund eligible resources and recovery efforts associated with domestic major disasters and emergencies pursuant

to the Stafford Act. Congress appropriated \$29 billion to the Disaster Relief Fund in the American Relief Act of 2025.

148. FEMA reports the amounts shown in Table 5 below that have been obligated to the Plaintiff States from the Disaster Relief Fund for non-COVID disasters declared since 2017:

**Table 5: Funds Obligated from FEMA Disaster Relief Fund to Plaintiff States for All Non-COVID Disasters Declared since 2017<sup>6</sup>**

<b>Plaintiff State</b>	<b>Disaster Relief Fund Obligated</b>
<b>California</b>	\$10,568,360,571
<b>Colorado</b>	\$143,121,862
<b>Connecticut</b>	\$131,297,670
<b>Delaware</b>	\$12,350,207
<b>Hawai‘i</b>	\$3,101,612,588
<b>Illinois</b>	\$908,670,108
<b>Maine</b>	\$179,040,154
<b>Maryland</b>	\$46,564,664
<b>Massachusetts</b>	\$137,379,778
<b>Michigan</b>	\$1,038,738,685
<b>Minnesota</b>	\$356,296,878
<b>Nevada</b>	\$51,086,321
<b>New Jersey</b>	\$825,930,470
<b>New Mexico</b>	\$636,019,267
<b>New York</b>	\$1,865,029,522

<sup>6</sup> As reported on FEMA, *State Profiles on Disaster Funding*, available at <https://www.fema.gov/emergency-managers/national-preparedness/frameworks/national-disaster-recovery/support-functions/rsflg/state-profiles> (accessed on May 8, 2025).

<b>Oregon</b>	\$1,054,042,995
<b>Rhode Island</b>	\$61,043,035
<b>Vermont</b>	\$497,283,427
<b>Washington</b>	\$379,179,132
<b>Wisconsin</b>	\$157,445,122

149. As shown in Table 5, FEMA has obligated over \$22 billion in disaster relief funding since 2017 to the Plaintiff States, amounting to an average of over \$2 billion per year.

**a. Public Assistance Program**

150. After the President makes a major disaster declaration pursuant to the Stafford Act, the Public Assistance Program provides federal funding to States and other eligible recipients to help communities pay for emergency response measures in a disaster's immediate aftermath. FEMA and States work to develop detailed preliminary damage estimates, which ultimately become the basis on which FEMA determines the amount of funding that will be made available. *See* 44 C.F.R. §§ 206.201(d); 206.202.

151. Neither the Stafford Act nor the FEMA regulations applicable to the Public Assistance Program authorize DHS to impose any of the Civil Immigration Conditions on Public Assistance Program funds.

152. Public Assistance funds are critical for States as they recover from major disasters, funding activities ranging from debris removal, search and rescue, construction of temporary facilities for medical care and shelter, and infrastructure repair, all of which are authorized by the Stafford Act. *See* 42 U.S.C. §§ 5170a, 5170b, 5172-5173, 5185-5186. States can also apply for a narrower set of assistance after the declaration of an emergency, short of a major disaster. *See id.* § 5192(a). The federal share of Public Assistance funding “shall be not less than 75 percent of the eligible cost.” *Id.* §§ 5170b(b), 5172(b)(1), 5173(d), 5193(a).

153. Plaintiff States rely on Public Assistance for a wide range of essential recovery expenses. For example, Illinois has used its Public Assistance funding to conduct search and rescue operations in the immediate aftermath of a disaster, provide food aid, debris removal, and permanent work including the repair of roads, bridges, water control facilities, buildings and equipment, utilities, ports, recreational areas, and other physical infrastructure.

154. Delaware currently relies on Public Assistance funding arising out of a Tropical Storm ISAIAS which caused widespread flooding and wind damage. Public Assistance funds were used to restore electrical infrastructure and roads damages by the storm.

155. Hawai'i has thirteen open Public Assistance awards, providing emergency relief after landslides, wildfires, hurricanes, and the Kilauea Volcanic eruption and earthquakes.

156. In New York, Public Assistance funds ensured that vital public services were stabilized and rebuilt in the wake of Superstorm Sandy, and the funds ensured that a pump station and sewer treatment plant were repaired after Tropical Storm Debby.

157. Washington has relied on Public Assistance to rebuild key buildings after fire destroyed 80% of buildings in the town of Malden, including the fire station, the city hall, library, post office, and at least 84 homes. Washington also relied on Public Assistance funding after severe storms to repair the Diablo Dam, a key hydroelectric asset that generates electricity and plays a role in managing the State's water supply.

158. Finally, Wisconsin used Public Assistance funds to repair critical infrastructure after 17 tornadoes hit northern Wisconsin, causing extended power outages.

159. Plaintiff States have routinely applied for, and intend to continue to apply for, Public Assistance funds whenever they suffer from an eligible major disaster, which could happen at any time.

**b. Disaster Case Management (“DCM”) Program**

160. The Stafford Act also provides that the federal government “may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.” 42 U.S.C. 5189d(a).

161. The Disaster Case Management (“DCM”) Program provides supplemental funding to the Public Assistance funding for a State to assist disaster-impacted individual and families through the recovery process. For example, the program funds case managers who work directly with disaster survivors to develop and carry out the survivor’s long-term recovery plan.

162. The Stafford Act does not authorize DHS to impose any of the Civil Immigration Conditions on DCM funds or impose immigration status requirements on survivors or individual DCM service beneficiaries.

163. For example, Illinois has three open DCM awards, relating to disasters involving severe storms and flooding. The original amounts of these awards totaled over \$9 million. Illinois is in the process of finalizing an additional DCM award under a disaster involving severe storms, tornadoes, straight-line winds, and flooding that took place in seven Illinois counties during the period July 13, 2024 to July 16, 2024. Illinois intends to apply again for DCM funds whenever there is an eligible major disaster affecting Illinois.

164. Multiple Plaintiff States have routinely applied for, and intend to continue to apply for, DCM funds whenever they suffer from an eligible major disaster, which could happen at any time.

**c. Hazard Mitigation Grant Program (“HMGP”)**

165. The Stafford Act also provides that the federal government may contribute “up to 75 percent of the cost of hazard mitigation measures” which “substantially reduce the risk of, or

increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster.” 42 U.S.C. § 5170c(a).

166. After a major disaster declaration, the Hazard Mitigation Grant Program (“HMGP”) provides federal funding to States to develop hazard mitigation plans and rebuild in a way that reduces future disaster losses in the communities affected by the declared disaster. Projects eligible for HMGP funds include, but are not limited to, structural hazards control or protection projects, construction activities, retrofitting of facilities, or development or improvement of warning systems. 44 C.F.R. §§ 206.434(d).

167. For example, Colorado is using an HMPG award following the Cameron Peak Fire to prevent further losses in the area due to wildfire. This project will reduce hazardous fuels along 47 miles of critical road infrastructure and adjacent private properties to provide a safer environment for thousands of residents and businesses. It will also protect critical community infrastructure, including: 41 dams, 35 schools, 15 fire and EMS stations, 4 hospitals, 4 power plants, 3 wastewater treatment plants, and a water treatment plant. This project has a total cost of \$1.5 million (\$1.14 million federal, \$190,000 state, and \$190,000 local) and provides over \$7 million of benefits, a return on investment of \$4.57 in savings for every \$1.00 invested.

168. Similarly, Wisconsin has relied on HMGP funds to address erosion caused by high water levels Lake Michigan, putting a sewer interceptor line at severe risk of failure. An HMPG grant of over \$7 million will protect the sanitary system in the City of Sheboygan from failure.

169. Washington and Oregon are both using HMPG funds to retrofit or replace water storage facilities in the Cascadia Subduction Zone to avert severe damage in the event of an earthquake. Absent this work, the current facilities are expected to suffer catastrophic failure during the next significant earthquake, which would not only render water systems inoperable but also endanger lives.

170. Neither the Stafford Act nor the FEMA regulations applicable to the HMGP authorize DHS to impose any of the Civil Immigration Conditions on HMGP funds.

171. Multiple Plaintiff States have routinely applied for, and intend to continue to apply for, HMPG funds whenever they suffer from an eligible major disaster, which could happen at any time.

**d. Fire Management Assistance Grant (“FMAG”) Program**

172. The Stafford Act also provides that the federal government may “provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.” 42 U.S.C. § 5187. One of the purposes of these grants is to save the federal government money. Stopping a fire before it turns into a major disaster saves lives, protects property, and reduces the funding necessary for recovery efforts.

173. Funding is available under the Fire Management Assistance Grant (“FMAG”) Program after a State’s Governor or the Governor’s Authorized Representative requests an FMAG declaration, and FEMA grants the request.

174. FEMA regulations describe the criteria to be considered when evaluating a request for an FMAG evaluation. 44 C.F.R. § 204.21. None of these criteria relate to civil immigration policy.

175. As an example of how States rely on FMAG funding, Washington has 60 open FMAG grants and has received 32 FMAG grants over the past five years. These federal funds are critical for ensuring state and local governments have the resources necessary to evacuate affected areas and control fires, including by renting aircraft, bulldozers, and other equipment, funding firefighter overtime, and providing food and lodging for firefighters that travel from outside the

area to help. Washington experiences wildfires every summer, and its highest risk fire season is between June and October.

176. Multiple Plaintiff States intend to apply for FMAG funds whenever they suffer from an eligible major fire, which could happen at any time.

### **3. FEMA Mitigation Grants**

177. In addition to preparedness grants and disaster relief grants, FEMA administers grants programs authorized by other statutes intended to reduce risks posed by earthquakes, floods, and other natural disasters before those disasters occur.

#### **a. National Earthquake Hazards Reduction Program – Individual State Earthquake Assistance (“NEHRP-ISEA”)**

178. The National Earthquake Hazards Reduction Program – Individual State Earthquake Assistance (“NEHRP-ISEA”) provides federal funding to States to reduce the risks to life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake risk reduction program.

179. NEHRP-ISEA funds have been available to States since the program was created by the Earthquake Hazards Reduction Act of 1977. The program is codified at 42 U.S.C. § 7704.

180. NEHRP-ISEA are available to eligible applicants, as determined by a risk formula. Each State is entitled to a specific allocation whenever a notice of funding opportunity is posted.

181. The NEHRP-ISEA statute does not authorize DHS to impose any of the Civil Immigration Conditions on NEHRP-ISEA funding.

182. States collectively receive millions of dollars per year in NEHRP-ISEA grants. Many States use these funds for earthquake risk reduction programming. For instance, they use these funds to support seismic mitigation planning, conduct seismic safety inspections of critical structures, update building codes, zoning codes, and ordinances to enhance seismic safety, increase

earthquake awareness and education, participate in emergency management exercises, and promote earthquake insurance.

183. Because each NEHRP-ISEA grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support earthquake risk reduction in at least the two years thereafter.

184. As an example of how States use NEHRP-ISEA funding, Illinois passes all its funds on to the Central United States Earthquake Consortium (CUSEC), which is a partnership among the eight States affected by earthquakes in the central United States, including in the vicinity of the New Madrid fault system.

185. Illinois currently relies on funding from the NEHRP-ISEA awards for FY2023 and FY2024. For FY2023, Illinois received an NEHRP-ISEA award of \$62,496. For FY2024, Illinois received an NEHRP-ISEA award of \$62,496.

186. Washington has applied for and received NEHRP-ISEA grants on many occasions since the program began, and Washington intends to apply for an NEHRP-ISEA grant for fiscal year 2025. Washington faces one of the highest earthquake risks in the nation. In addition to fault lines throughout the state, including in Seattle, the Cascadia Subduction Zone off the Washington coast is one of the most dangerous fault lines on Earth. These funds support coordination between state and local agencies and the private sector regarding efforts to retrofit unreinforced masonry buildings (such as brick buildings) that face the highest risk of collapse during an earthquake. In addition, these funds support the annual Great Washington ShakeOut Campaign, which is a statewide earthquake and tsunami drill that encourages individuals, families, schools, businesses, and other organizations to update their emergency plans, restock their emergency supplies, secure their spaces, and practice evacuation routes so that they can minimize harm from an earthquake or tsunami.

187. Multiple Plaintiff States intend to apply for NEHRP-ISEA funds in FY2025.

**b. Flood Mitigation Assistance (“FMA”)**

188. Flood Mitigation Assistance (“FMA”) grants provide federal funding to States for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance with the National Flood Insurance Program, with a focus on eliminating the risk of repetitive flood damage.

189. FMA funds have been available to States since the program was created by the National Flood Insurance Reform Act of 1994. The program is codified at 42 U.S.C. § 4104c.

190. FMA grants are awarded on a competitive basis to specific sub-applicants, which are generally units of local government. Units of local government present flood mitigation plans to States, which review and present one combined application to FEMA. FEMA then makes awards based on based on each State’s ranking of the projects, project eligibility, and cost-effectiveness of the projects.

191. The FMA statute does not authorize DHS to impose any of the Civil Immigration Conditions on FMA funding.

192. States collectively receive millions of dollars per year in FMA grants. They use these funds to undertake both localized and individual flood mitigation projects. Localized projects include drainage pipes, pump stations, grading, and seawalls to reduce flood risk in a localized area. Individual flood mitigation operates at the property level, for instance by allowing local governments to acquire flood-prone properties so that the owners can relocate.

193. Because each FMA grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support earthquake risk reduction in at least the two years thereafter.

194. Multiple Plaintiff States rely on FMA funding. For example, Illinois currently relies on funding from the FMA awards for FY2019, FY2021, and FY2022. For FY2019, Illinois received an FMA award of \$1,929,926.90. For FY2021, Illinois received an FMA award of \$2,158,695. For FY2022, Illinois received an FMA award of \$373,210.50.

195. New Jersey currently relies on funding from the FMA awards for FYs 2018 through 2023. For FY2018, New Jersey received an FMA award of \$10,925,478. For FY2019, New Jersey received an FMA award of \$21,193,033. For FY2020, New Jersey received an FMA award of \$14,101,546. For FY2021, New Jersey received an FMA award of \$22,344,965. For FY2022, New Jersey received an award of \$29,266,503. For FY2023, New Jersey received an award of \$20,006,501.

196. Multiple Plaintiff States applied for FMA funds in FY2024, with the application window closing on April 18, 2025. Those applications are currently under review by FEMA.

197. Multiple Plaintiff States intend to apply for FMA funds in FY2025.

**c. National Dam Safety Program (“NDSP”)**

198. National Dam Safety Program (“NDSP”) grants provide federal funding to States to support state programs intended to ensure dam safety and thereby protect human life and property.

199. NDSP funds have been available to States since the program was created by the National Dam Safety Program Act in 1996. The program is codified at 33 U.S.C § 467f.

200. FEMA “shall provide assistance” under the NDSP to “assist States in establishing, maintaining, and improving dam safety programs” in accordance with statutory criteria. 33 U.S.C § 467f(e)(1).

201. The NDSP statute does not authorize DHS to impose any of the Civil Immigration Conditions on NDSP funding.

202. Plaintiff States collectively receive millions of dollars per year in NDSP grants. Projects funded by NDSP funds include the daily work for processing permit applications for the construction, operation, and maintenance of new dams and the modification, operation, and maintenance of existing dams. States also use NDSP funds to support dam inspection programs.

203. Multiple Plaintiff States currently rely on NDPS awards. For example, Illinois currently relies on funding from NDSP awards from FY2024. In the Spring of FY2024, Illinois received an NDSP award of \$100,078. In the Fall of FY2024, Illinois received an NDSP award of \$174,843.

204. New Jersey currently relies on funding from NDSP awards from FY 2024 in the amount of \$511,366 and FY2023 in the amount of \$94,816.

205. Massachusetts received funding from NDSP awards from FY2022, FY2023, and FY 2024. In FY2022, Massachusetts received an NDSP award of \$209,257.41. In FY2023, Massachusetts received a NDSP award of \$119,563. In FY2024, Massachusetts received an NDSP award of \$645,551.

206. Multiple Plaintiff States intend to apply for NDPS funds in FY2025.

**d. Community Assistance Program – State Support Services Element (“CAP-SSSE”)**

207. Community Assistance Program – State Support Services Element (“CAP-SSSE”) grants provide federal funding to States for state-level technical assistance for the National Flood Insurance Program (“NFIP”). The funding helps States to proactively identify, prevent, and resolve floodplain management issues in participating communities before a flood event occurs.

208. CAP-SSSE funds have been available to States since the program was created by the Flood Insurance Act of 1968.

209. Through CAP-SSSE, each State is entitled to a base allocation whenever a notice of funding opportunity is posted, but the States can also apply for additional discretionary and competitive funding.

210. The statutes and regulations governing CAP-SSSE do not authorize DHS to impose any of the Civil Immigration Conditions on CAP-SSSE funding.

211. States collectively receive millions of dollars per year in CAP-SSSE grants. Uses of CAP-SSEE funds include support for the salaries of NFIP employees, who educate and train local officials on how to build floodplain management efforts to assure continued eligibility to participate in NFIP.

212. Each CAP-SSSE grant typically remains open for one year.

213. Multiple Plaintiff States currently rely on CAP-SSSE funding. For example, Illinois currently relies on funding from a CAP-SSSE award for FY2024. In FY2024, Illinois received a CAP-SSSE award of \$293,318.

214. New Jersey currently relies on funding from a CAP-SSSE award for FY2024. In FY2024, Illinois received a CAP-SSSE award of \$504,104.

215. Multiple Plaintiff States intend to apply for CAP-SSSE funds in FY2025.

**e. National Urban Search & Rescue Response System (“US&R”)**

216. National Urban Search & Rescue Response System (“US&R”) grants provide federal funding to States to ensure adequate management, training, exercise, procurement, storage, and maintenance for joint national-state task forces staffed and equipped to conduct around-the-clock search and rescue operations following a major disaster or emergency declared under the Stafford Act. When deployed, these task forces support other state and local emergency responders in conducting mass search and rescue operations in the immediate aftermath of a natural or man-made disaster.

217. For example, since its formation in 2016, New Jersey’s urban search and rescue team has provided advanced technical search and rescue capabilities in response to several catastrophic disasters across the county including Hurricane Harvey in 2017, Hurricane Dorian in 2019, Hurricane Ida in 2021, Hurricane Ian in 2022, and Hurricanes Helene and Milton in 2024 among numerous others.

218. US&R funds have been available to States since the program was created by FEMA in 2005. 44 C.F.R. § 208.1 et. seq.

219. Because US&R grants are formula grants and not competitive grants, each State is entitled to a specific allocation whenever a notice of funding opportunity is posted.

220. The statutes and regulations governing US&R grants do not authorize DHS to impose any of the Civil Immigration Conditions on US&R funding.

221. States collectively receive millions of dollars per year in US&R grants.

222. Because each US&R grant typically remains open for three years, an award in one fiscal year usually allows States to continue to support urban search and rescue efforts in at least the two years thereafter.

223. In FY2023, New Jersey received a US&R award of \$1,409,884.

224. Multiple Plaintiff States intend to apply for US&R funds in FY2025.

**f. Cooperating Technical Partners Program (“CTP”)**

225. Cooperating Technical Partners Program (“CTP”) grants provide federal funding to States to participate in the FEMA flood mapping program. The funding helps States to proactively identify flood hazards, make risk assessments, and support local communities to take action to reduce the risk of flooding.

226. CTP funds have been available to States since the program was created by FEMA in 2001 through 66 Fed. Reg. 30925 (2001).

227. The statutes and regulations governing CTP grants do not authorize DHS to impose any of the Civil Immigration Conditions on CTP funding.

228. States collectively receive millions of dollars per year in CTP grants. They use these funds to support the salaries of agency employees who work on flood risk mapping projects.

229. New Jersey currently relies on funding from CTP awards for FY2018, FY2021, FY2022, FY2023, and FY2024. In FY2018, New Jersey received a CTP award of \$2,988,193. In FY2021, New Jersey received a CTP award of \$105,000. In FY2022, New Jersey received a CTP award of \$240,000. In FY2023, New Jersey received a CTP award of \$291,000. In FY2024, New Jersey received a CTP award of \$40,000.

230. Multiple Plaintiff States intend to apply for CTP funds in FY2025.

#### **4. Non-FEMA DHS Grants**

231. Finally, DHS sub-agencies other than FEMA also administer grant programs on which the States rely.

232. Specifically, the State Recreational Boating Safety (“RBS”) grant program, operated by Defendant USCG, provides federal funding to States to assist States carrying out their own state recreational boating safety programs that meet certain federal requirements, thereby promoting uniform standards for boating safety across the country.

233. RBG grant funds have been available to States since the program was created by the Federal Boat Safety Act of 1971, Pub. L. 92-75, 85 Stat. 213 (codified as amended at 46 U.S.C. § 13101 *et seq.*).

234. Because RBS grants are formula grants and not competitive grants, each State is entitled to a specific allocation whenever a notice of funding opportunity is posted. *See* 46 U.S.C. § 13104 (detailing funding formula).

235. The RBS statutes do not authorize DHS to impose any of the Civil Immigration Conditions on RBS funding.

236. States collectively receive millions of dollars per year in RBS grants. States use these funds for recreational boating safety programming. For instance, they use these funds to support the salaries of law enforcement who work on boat safety enforcement, to fund on-water safety training, to purchase aids in navigation on navigable waterways, and to help maintain state-level boat registration and titling databases.

237. Each RBS grant typically remains open for one year.

238. On April 4, 2025, the USCG provided formal notification to Plaintiff States of their FY2025 allocations under the RBS program. Those allocations are set out in Table 6 below:

<b>Table 6: Funds Allocated to Plaintiff States for RBS Program for FY2025</b>	
<b>Plaintiff State</b>	<b>FY2025 Allocation</b>
<b>California</b>	\$5,443,096
<b>Colorado</b>	\$1,143,289
<b>Connecticut</b>	\$1,513,650
<b>Delaware</b>	\$1,111,080
<b>Hawai'i</b>	\$927,355
<b>Illinois</b>	\$1,710,304
<b>Maine</b>	\$1,466,596
<b>Maryland</b>	\$3,964,905
<b>Massachusetts</b>	\$2,390,327
<b>Michigan</b>	\$7,368,925
<b>Minnesota</b>	\$3,962,181
<b>Nevada</b>	\$1,018,081

New Jersey	\$2,703,231
New Mexico	\$936,451
New York	\$2,901,786
Oregon	\$2,235,584
Rhode Island	\$1,077,219
Vermont	\$963,614
Washington	\$2,573,759
Wisconsin	\$3,902,902
<b>TOTAL</b>	<b>\$45,353,395</b>

**B. States Have Exercised Their Sovereign Prerogative To Choose How To Deploy Law Enforcement Resources Within Their Jurisdictions.**

239. Plaintiff States are responsible for maintaining the day-to-day safety of all residents of their communities. Plaintiff States enact statutes and establish policies to effectively enforce state and local laws, keep public order, and provide public safety services. *See United States v. Morrison*, 529 U.S. 598, 618 (2000) (“Indeed, we can think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims.”).

240. One critical choice that Plaintiff States can make in doing so is whether to devote their scarce law enforcement and other agency resources to assisting the federal government in enforcing federal civil immigration law.

241. Many Plaintiff States and their political subdivisions, for decades, have chosen to limit their entanglement in the enforcement of federal immigration law. *See, e.g.*, 5 Ill. Comp. Stat. 805/1 to /20; 5 Cal. Gov. Code §§ 7282, 7282.5, 7283-7283.2, 7284-7284.12; N.J. Att’y Gen. Directive 2018-6; Wash. Rev. Code Ann. §§ 10.93.160, 43.10.315; Colo. Rev. Stat. § 24-76.6-102

to -103; Conn. Gen. Stat. Ann. § 54-192h; Or. Rev. Stat. § 181A.820; Vt. Stat. Ann. tit. 20, § 4651; N.Y. Exec. Orders 170 and 170.1. Many of these States have determined that public safety and law enforcement benefit from a relationship of trust between immigrant communities and state and local law enforcement. Their laws and policies uniformly authorize state and local authorities to comply with all applicable federal laws, but impose limitations on the circumstances under which state and local officers can devote their own resources to assisting the federal government in enforcing federal immigration law.

242. These laws and policies are based on the considered experience of law enforcement agencies, which demonstrates that persons who lack lawful immigration status or have family members or friends who lack lawful immigration status are less likely to report a crime as victims or witnesses if they fear that the responding officer will turn them over to civil immigration authorities. This reluctance makes it increasingly difficult for officers to solve crimes and bring suspects to justice, putting all residents at risk. *See, e.g.,* Directive 2018-6, at 1; Cal. Gov. Code § 7284.2.

243. These States' determination is also well-supported by analyses of empirical data. Numerous studies have confirmed that immigration-related fears prevent witnesses, victims, and others from reporting crimes. Surveys of law enforcement officers and analyses of victim reporting data conclude that fear of immigration enforcement decreased immigrant victims' likelihood of making police reports and reporting domestic violence, participating in investigations, and working with prosecutors. *See* Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey* at 72-73, National Immigrant Women's Advocacy

Project (May 3, 2018).<sup>7</sup> One study estimated that policies designed to foster greater trust between immigrant communities and police could cause an additional 90,000 violent incidents per year to be reported to law enforcement nationwide. *See* Ricardo D. Martínez-Schuldt & Daniel E. Martínez, *Immigrant Sanctuary Policies and Crime-Reporting Behavior: A Multilevel Analysis of Reports of Crime Victimization to Law Enforcement, 1980 to 2004*, 86 Am. Sociological Rev. 154, 170 (2021).

244. Illinois, for instance, has codified its commitment to building trust between immigrant communities and state and local law enforcement officers in the TRUST Act, which was enacted in 2017 by the Illinois General Assembly and signed into law by Bruce Rauner, then the Republican Governor of Illinois. The TRUST Act provides that law enforcement agencies and officers in Illinois may not detain a person solely on the basis of an “immigration detainer” or a civil immigration warrant, 5 ILCS 805/15(a), and generally prohibits them from detaining people solely on the basis of citizenship or immigration status, *id.* § 805/15(b). The statute also prohibits state and local law enforcement officials from assisting federal immigration agents in any enforcement operations, *id.* § 805/15(h)(1); providing access to detained individuals to immigration agents, *id.* § 805/15(h)(2); and giving immigration agents non-public information about the release dates of detained individuals, *id.* § 805/15(h)(7). But the TRUST Act expressly allows state and local law enforcement officers to cooperate with federal immigration enforcement actions when “presented with a federal criminal warrant” or “otherwise required by federal law,” *id.* § 805/15(h), and also expressly states that it should not be read to “restrict” information-sharing regarding “citizenship or immigration status” in accordance with two federal statutes, 8 U.S.C. § 1373 and § 1644, *id.* § 805/5.

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<sup>7</sup> Available at <http://library.niwap.org/wp-content/uploads/Immigrant-Access-to-Justice-National-Report.pdf>.

245. New Jersey's Immigrant Trust Directive ("ITD"), Directive 2018-6, for instance, likewise is meant to build a cooperative relationship between immigrant communities and law enforcement. Issued by the New Jersey Attorney General, the State's chief law enforcement officer, the ITD carries the force of law and is binding on all New Jersey state and local law enforcement agencies. It is designed to help communities draw a clear distinction between state and local officers who enforce state criminal law, and federal immigration officers who enforce federal civil immigration law. For instance, it limits federal immigration officers' access to state and local law enforcement facilities, and to individuals detained within them, and it prevents state and local law enforcement from providing notice of most detainees' upcoming release from custody, or for holding most detainees solely pursuant to a civil detainer request. *See* Directive 2018-6, at 3-4.

246. At the same time, the ITD also contains provisions to ensure that New Jersey's law enforcement agencies and officers comply with federal law and that violent criminals are held accountable. The ITD allows state and local law enforcement officers to assist federal immigration authorities where state and federal law require. State and local officers can provide assistance to comply with federal court orders and judicial arrest warrants. They can participate in joint law enforcement efforts with federal authorities in efforts unrelated to civil immigration enforcement and can help federal immigration authorities in exigent circumstances. The ITD also permits state and local law enforcement to notify immigration authorities about the release of certain detainees with particularly serious criminal histories, and to continue to hold those detainees pursuant to immigration detainers. And the ITD is also clear that it should not be construed to restrict or prohibit a state or local law enforcement agency or officer from maintaining information about the citizenship or immigration status of any individual, or providing that information to or receiving it from the federal government.

247. Likewise, in 2017, California enacted Senate Bill 54 (SB 54), known as the California Values Act, Cal. Gov’t Code §§ 7284-7284.12, to “foster trust between California’s immigrant community and state and local agencies,” to “ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California,” and “to direct the state’s limited resources to matters of greatest concern to state and local governments.” *Id.* § 7284.2. In furtherance of those objectives, the Values Act sets the parameters under which California law enforcement agencies may assist in immigration enforcement. For example, the Values Act: (a) prohibits compliance with detainer hold requests, *id.* § 7284.6(a)(1)(B); (b) defines when California law enforcement agencies may comply with requests by immigration authorities seeking the release date and time of a person in advance of the person’s release, i.e., notification requests, *id.* §§ 7282.5(a), 7284.6(a)(1)(C); (c) defines when California law enforcement agencies may transfer an individual to immigration authorities—including when authorized by a judicial warrant or judicial probable cause determination, *id.* §§ 7282.5(a), 7284.6(a)(4); and (d) restricts California law enforcement agencies from “[p]roviding personal information . . . about an individual” for “immigration enforcement purposes,” unless that information is publicly available, *id.* § 7284.6(a)(1)(D).

248. The Values Act, however, does not prohibit California law enforcement agencies from asserting its own jurisdiction over criminal law enforcement matters, *id.* § 7284.6(f), and permits other forms of cooperation with immigration authorities. It does not restrict law enforcement agencies from responding to requests from immigration authorities for a specific person’s criminal history. *Id.* § 7284.6(b)(2). The Values Act permits law enforcement agencies to participate in task forces with immigration authorities or share confidential information if the “primary purpose” of the task force is not immigration enforcement. *Id.* § 7284.6(b)(3). And it expressly authorizes compliance with all aspects of 8 U.S.C. §§ 1373 and 1644. *Id.* § 7284.6(e).

249. Maryland law enables law enforcement to investigate crime regardless of immigration status while also encouraging immigrant communities to cooperate with law enforcement. Maryland law generally prohibits law enforcement agents from inquiring about an individual's "citizenship, immigration status, or place of birth during a stop, a search, or an arrest," while engaging in the performance of "regular police functions" and prohibits law enforcement agents from detaining, or extending the detention of, an individual for the purposes of "investigating the individual's citizenship or immigration status, or based on the suspicion that the individual has committed a civil immigration violation." Md. Code Ann., Crim. Proc. § 5-104. It also prohibits law enforcement agents from intimidating, threatening, or coercing any individual on the basis of the actual or perceived immigration status of the individual or their family member, legal guardian, or someone whom they serve as a guardian, and from transferring an individual to federal immigration authorities unless specifically required to do so by federal law. *Id.* specifically states, "Nothing in this subsection shall prevent a law enforcement agent from inquiring about any information that is material to a criminal investigation." *Id.*

250. Maryland law also restricts State and local officials from sharing an individual's photograph or "personal information," such as their address, with a federal agency seeking to enforce the immigration laws. Md. Code Ann., Gen. Prov. § 4-320.1(b). However, it will share such information with a federal agency seeking to enforce immigration laws when a judicial warrant is presented. *Id.*

251. Some States have likewise determined that it will interfere with important public welfare functions if state employees divert non-law enforcement resources to engage in unnecessary inquiries into individuals' immigration status, fulfill information requests by federal immigration officials not required by law, or facilitate civil immigration arrests in state buildings. *E.g.*, New York Exec. Order 170 (Sept. 15, 2017); New York Exec. Order 170.1 (Apr. 25, 2018).

252. Other Plaintiff States have made different decisions or are subject to different rules in this context. For instance, some Plaintiff States must comply with state court rulings that prevent them from cooperating with civil immigration detainer requests. *See Lunn v. Commonwealth*, 477 Mass. 517, 518-19 (2017).

253. Still other Plaintiff States without codified directives of the kind described above have not imposed categorical limitations on the use of law-enforcement or state agency resources to assist in the enforcement of federal immigration law. However, they nonetheless do not impose categorical *requirements* of this kind on their law enforcement officers and state agency employees.

254. Some of these States have concluded that participating in federal immigration enforcement efforts imposes substantial costs on local jurisdictions, not only in the form of personnel and resources but also in the form of potential civil liability. And some such States have reasoned that even where law-enforcement resources are dedicated to assisting with enforcement of federal immigration law, it is preferable to retain critical decision-making authority regarding when to offer those resources and how many resources to offer.

255. Thus, although Plaintiff States have made different decisions regarding the use of their law enforcement and agency resources, all Plaintiff States' decisions in this area are consistent with the basic rule that the States "remain independent and autonomous within their proper sphere of authority," *Printz*, 521 U.S. at 928—a principle that has no greater force than in the context of States' exercise of their police powers for the protection of their residents.

### **C. Defendants Impose the Civil Immigration Conditions.**

256. Since January 2025, Defendants have engaged in a concerted campaign to pressure States to serve as enforcers of federal immigration law, subverting the design of each DHS grant program.

257. On January 20, 2025, his first day in office, President Trump issued an executive order directing the Secretary of Homeland Security to “ensure that so-called ‘sanctuary’ jurisdictions do not receive access to Federal funds,” and to take “any other lawful actions, criminal or civil” that the Secretary of Homeland Security deem warranted. Exec. Order No. 14159, 90 Fed. Reg. 8443 (2025).

258. This was not President Trump’s first time announcing an intent to use conditions on federal funding to coerce states into adopting his preferred set of policies. The first Trump Administration imposed immigration-enforcement conditions on funding Plaintiff States received from the Byrne Justice Access Grants Program. These immigration-enforcement conditions prompted extensive litigation, in which courts repeatedly held the immigration-enforcement conditions to exceed the Department’s statutory authority. *City of Providence v. Barr*, 954 F.3d 23, 42 (1st Cir. 2020); *City of Philadelphia v. Att’y Gen. of United States*, 916 F.3d 276, 290 (3d Cir. 2019); *City of Chicago v. Barr*, 961 F.3d 882, 894 (7th Cir. 2020); *City & Cnty. of San Francisco v. Barr*, 965 F.3d 753, 761 (9th Cir. 2020); *City of Los Angeles v. Barr*, 941 F.3d 931, 944 (9th Cir. 2019); *Colorado v. U.S. Dep’t of Justice*, 455 F. Supp. 1034 (D. Colo. 2020); *City of Evanston v. Sessions*, 2018 WL 10228461 (N.D. Ill. 2018); *see also City of Albuquerque v. Barr*, 515 F. Supp. 3d 1163 (D. N.M. 2021) (granting preliminary injunction); *but see New York v. Dep’t of Justice*, 951 F.3d 84 (2d Cir. 2020).

259. On February 19, 2025, the DHS Secretary issued a memorandum to all USDHS agencies and offices titled “Restricting Grant Funding for Sanctuary Jurisdictions” (the “Directives Memorandum”), attached as Exhibit A. The Directives Memorandum directed all DHS agencies and offices to review all federal financial assistance and, consistent with DHS’ immigration initiatives, cease federal funding to what DHS deems “sanctuary” jurisdictions. The DHS

Secretary also directed components to make criminal referrals to the Department of Justice for any resistance or non-compliance with lawful immigration-related commands.

260. On March 20, 2025, then-interim FEMA Administrator Cameron Hamilton sent a memorandum to the DHS Secretary titled “Approval of FEMA-Administered Grant Disbursements,” attached as Exhibit B. Hamilton’s memorandum listed FEMA’s grant programs and identified twelve specific grant programs that, in his view, might lawfully be limited to non-“sanctuary” jurisdictions. Hamilton recommended applying targeted terms that would limit funding under these twelve programs to States that helped assist in enforcing federal immigration law—but only those twelve programs. Hamilton’s recommendation regarding these twelve programs was not supported by any statutory authority or any analysis of the basis for DHS’s authority to impose conditions on grant programs.

261. DHS did not adopt Hamilton’s recommendations. Instead, on March 27, 2025, DHS posted on its website the FY 2025 DHS Standard Terms and Conditions, Version 2, and on April 18, 2025, DHS posted on its website the FY 2025 DHS Terms and Conditions, Version 3 (the “Terms and Conditions,” attached as Exhibit C). These Terms and Conditions govern “all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2025,” including those that Hamilton had previously recommended against attaching any immigration-related terms or conditions.

262. Section C.IX of the Terms and Conditions includes conditions titled “Communication and Cooperation with the Department of Homeland Security and Immigration Officials.” These conditions require recipients and subrecipients of any DHS federal awards to “comply with the following requirements related to coordination and cooperation with” federal immigration authorities, including, as summarized below:

- *The Information Sharing Condition* (C.IX.1.a): Grant recipients “must comply with the requirements of 8 U.S.C. §§ 1373 and 1644,” which prohibit

restrictions on government entities or officials exchanging information with DHS concerning the citizenship or immigration status, lawful or unlawful, of any individual.

- *The Compliance Condition* (C.IX.1.b): Grant recipients must comply with various criminal laws that prohibit, among other things, “encouraging or inducing” noncitizens to unlawfully enter the United States.
- *The Cooperation Condition* (C.IX.1.c): Grant recipients must “honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of an alien pursuant to a valid detainer.”
- *The Access Condition* (C.IX.1.d): Grant recipients must provide federal immigration agents “access to detainees” in correctional facilities to inquire as to such individuals’ right to be or remain in the United States.
- *The Publicization Condition* (C.IX.1.e): Grant recipients must not “leak or otherwise publicize the existence of” any federal immigration enforcement operations.
- *The Certification Condition* (C.IX.2): Grant recipients must certify compliance with the above conditions and require subgrant recipients to do the same.

263. Finally, Section C.XVII of the Terms and Conditions, titled “Anti-Discrimination,” imposes an additional immigration condition on all DHS awards (the *Benefits Condition*). The Benefits Condition requires recipients of grant awards to certify that “[t]hey do not, and will not during the term of this award, operate any program that benefits illegal immigrants or incentivizes illegal immigration.” But the condition does not define “benefits” or “incentivizes.”

264. The Civil Immigration Conditions that Plaintiff States challenge include both the conditions listed in Section C.IX of the Terms and Conditions and the Benefits Condition. Plaintiff States challenge the Civil Immigration Conditions and also reserve the right to challenge additional requirements imposed by the Terms and Conditions.

265. DHS announced that the Standard Terms and Conditions are applicable to all new federal awards made by DHS, including its sub-agencies, for which the federal award date occurs in FY 2025.

266. On April 28, 2025, President Trump issued another Executive Order relating to jurisdictions with policies designed to improve relations between law enforcement and communities. *See* Exec. Order No. 14287, 90 Fed. Reg. 18761 (2025). The EO requires “the Attorney General, in coordination with [DHS]” to publish a “list” of “sanctuary jurisdictions” and to “notify each sanctuary jurisdiction regarding its defiance of Federal immigration law enforcement and any potential violations of Federal criminal law.” *Id.* § 2(a). The Attorney General and DHS are to publish this list within 30 days, meaning May 28, 2025. *Id.*

267. Section 3(a) of the April 28 Executive Order then directs agencies to “identify appropriate Federal funds to sanctuary jurisdictions, including grants and contracts, for suspension or termination, as appropriate,” *id.* § 3(a), 90 Fed. Reg. at 18761-62, expanding to all federal agencies a similar directive in the January 20 Executive Order that applied only to the Attorney General and DHS, 90 Fed. Reg. at 8446, § 17.

268. Since adopting the FY 2025 Standard Terms and Conditions, Defendants have taken multiple steps to secure Plaintiff States’ agreement to them.

269. All Plaintiff States receive annual funding through the Recreational Boat Safety grant program, operated by Defendant USCG. This program provides federal funding to States to assist States carrying out their own state recreational boating safety programs that meet certain federal requirements, thereby promoting uniform standards for boating safety across the country

270. On April 4, 2025, the USCG emailed all state agencies receiving funding through the RBS program to provide notification of the final FY2025 awards under the program. Some Plaintiff States have received award packages, requesting that Plaintiff States execute their acceptance of the final FY25 awards and all applicable conditions, including the Civil Immigration Conditions.

271. Many Plaintiff States have been unable to accept their FY2025 RBS award because they cannot, or are not willing to, comply with the Civil Immigration Conditions. DHS has thus required them to choose between obtaining federal funds under the RBS program—funds supporting safety measures on which they have relied for years—and adhering to the manner in which they have chosen to deploy law enforcement resources.

272. Defendant FEMA has also recently taken steps to require Plaintiff States to certify compliance with the Civil Immigration Conditions.

273. For instance, FEMA’s regulations provide that a “State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for fire management assistance grants” and that “FEMA will provide no funding absent a signed and up-to-date Agreement.” 44 C.F.R. § 204.25.

274. FEMA sent Washington a FEMA-State Agreement for 2025 on April 18, 2025. Section II(F)(3) of that Agreement incorporates DHS’s Standard Terms and Conditions, and thus the Civil Immigration Conditions, which Washington cannot agree to.

275. By conditioning Washington’s access to critical federal disaster funds—including funds that enable the State to fight wildfires of the kind that burned over 300,000 acres of land in 2024—on its agreement to the Civil Immigration Conditions, FEMA has put Washington in an untenable position: accept unlawful conditions that allow the federal government to conscript state law enforcement officers into enforcing federal immigration laws or risk out-of-control wildfires that could damage thousands of acres of state land, destroy state-owned and private property, and take lives.

276. Washington’s highest risk fire season runs from June to October, so it needs a decision imminently about whether the federal government may withhold federal firefighting funds based on a State not accepting DHS’s Standard Terms and Conditions.

277. Similarly, New Jersey relies on FMAG funding to construct field camps, to purchase equipment, materials, supplies, and to mobilize personnel in response to major fires. A major fire that is estimated to have burned over 15,000 acres occurred in Ocean County, New Jersey in May 2025, during which the Acting Governor of New Jersey, on behalf the New Jersey Office of Emergency Management, requested FEMA assistance in the form of grant under FMAG. The Acting Governor subsequently submitted a written request for FMAG funds to assist the state with paying costs associated with fighting the fire. FEMA has advised that to secure the FMAG funding that has been requested, the New Jersey Department of Law and Public Safety will have to agree to comply with the terms of a new Fire Management Assistance FEMA-State agreement. That agreement states that it is “subject to” the “DHS Standard Terms and Conditions for grants in effect at the date of this Agreement.”

278. States also face imminent demands to certify the Civil Immigration Conditions as to prior-year applications that are only now being granted and finalized for award. The Illinois Emergency Management Agency – Office of Homeland Security (“IEMA-OHS”), for instance, applied for an FY 2024 SLCGP grant. In January 2025, IEMA-OHS was told by FEMA that its FY 2024 application had been approved at a funding level of \$6,833,696.00. On May 6, 2025, a FEMA official further stated that there was final approval to move forward with the FY 2024 SLCGP grant, meaning that IEMA-OHS will imminently receive an award document for its ratification, and will be forced to choose between signing the new Civil Immigration Conditions and winding down its support of cybersecurity measures that prevent cyberterrorism.

279. As another example, Plaintiff New Jersey has recently received a final HMGP award under a presidential disaster declaration that occurred in August 2023. In connection with the final award letter to New Jersey, a FEMA official stated that the HMGP award would be subject to the latest version of the DHS Standard Terms and Conditions, which include the Civil

Immigration Conditions. Plaintiff States disagree with the assertion that the new DHS Standard Terms and Conditions would apply to awards issued under presidential disaster declarations that occurred in prior fiscal years. Nevertheless, the FEMA official's statement demonstrates Defendants' efforts to impose the Civil Immigration Conditions broadly, and the uncertainty about the Conditions' application puts States into the impossible position of choosing between their sovereign independence and critical funding for disaster recovery.

**D. The Civil Immigration Conditions Are Unlawful.**

280. The Civil Immigration Conditions overstep the Executive Branch's authority in numerous respects by attempting to use funds authorized and appropriated by Congress to *support* the States to instead *coerce* the States and their subdivisions into adhering to the policy priorities of the current administration.

281. "The Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs." *Printz*, 521 U.S. at 925. "That is true whether [it] directly commands a State to regulate or indirectly coerces a State to adopt a federal regulatory system as its own." *Nat'l Fed'n of Indep. Bus. v. Sebelius* ("NFIB"), 567 U.S. 519, 580 (2012) (opinion of Roberts, C.J.). The Civil Immigration Conditions attempt to do exactly that—and they do so by trying to use funds that Congress has appropriated to support the States and their residents in unrelated aims.

282. In doing so, the Civil Immigration Conditions upset the constitutional balance of power between the Executive Branch and Congress. An "agency literally has no power to act . . . unless and until Congress confers power upon it." *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986). And if Congress wishes to upset the federal-state balance of power, as the Civil Immigration Conditions do, "it must make its intention to do so unmistakably clear in the language of the statute." *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991). Here, no statute confers upon DHS

the power to impose an across-the-board condition requiring States to engage in federal immigration enforcement efforts to obtain federal funds, and the legislation authorizing the grant programs at issue in this litigation does not permit such an approach. The Civil Immigration Conditions are therefore ultra vires action by DHS.

283. Indeed, many of the authorizing statutes expressly forbid DHS from withholding grant money from the States. *See, e.g.*, 6 U.S.C. § 605(e)(1)(A)(v) (the FEMA administrator “shall ensure” that each State receive a minimum allocation of SHSP funds); *id.* § 665g(l) (the DHS Security “shall first apportion” a baseline percentage of each year’s apportionment of SLCGP funds to each State and “shall apportion” the remaining to States on a population-share basis); *id.* § 762(d) (the FEMA administrator “shall first apportion” a baseline amount of each year’s apportionment of EMPG funds to States and “shall apportion” the remainder of such amounts on a population-share basis). The Civil Immigration Conditions thus overturn Congress’s carefully designed statutory schemes for each grant program.

284. The Supreme Court has held that statutes should not be read to alter the “usual constitutional balance between the States and the Federal Government” unless that intention is “unmistakably clear in the language of the statute.” *Gregory*, 501 U.S. at 460. But the Civil Immigration Conditions also purport to remake the federal-state balance of power without any clear statement from Congress authorizing abridgement of Plaintiff States’ “substantial sovereign powers.” *Id.* at 461; *see also Gonzales v. Oregon*, 546 U.S. 243, 275-76 (2006) (concluding that “the background principles of our federal system” foreclosed reading a statute to confer authority on agency to regulate areas traditionally supervised by the States). DHS identifies no statute that could plausibly be read to permit it to use billions of dollars in federal funds as a cudgel to force the States to devote their law enforcement resources in this way, much less a statute that says so clearly.

285. The Civil Immigration Conditions are also arbitrary and capricious under the Administrative Procedure Act (“APA”). The APA requires that agencies’ decisions be supported by a rational connection between the choice made and the facts underlying that choice. It also requires that a deviation from agency policy be acknowledged and supported by a reasoned explanation or justification. *See* 5 U.S.C. § 706(2)(C). DHS’s imposition of the Civil Immigration Conditions is supported by neither.

286. DHS imposed sweeping new substantive conditions on the receipt of federal funds, imperiling billions of dollars in annual funding to the States. The funds that DHS is holding hostage are meant to fund emergency preparedness, flood mitigation, recovery from hurricanes and fires, and more. Plaintiff States have received grants administered by DHS for decades—in many cases, year over year—and rely on such funding for critical disaster preparedness, mitigation, and relief efforts. DHS now insists that the States are not entitled to these funds unless they help enforce federal immigration law. But it identifies no legal basis for imposing such a sweeping new condition for the first time across the entire span of the agency’s multi-billion-dollar funding portfolio. And its decision to impose these conditions on all DHS grant programs, across the board, with no regard for the purpose of the individual grant program or the statutory scheme that undergirds it, is the antithesis of the kind of reasoned decision making that the APA requires. Agencies cannot execute an about-face of this sort without a reasoned justification that considers all relevant factors—including, at bare minimum, the statutory scheme, the States’ substantial reliance interests, and the detrimental effects of imposing the condition on state and local law enforcement. DHS’s failure to offer any reasoned explanation for its imposition of the conditions transparently violates the APA.

287. Finally, the Civil Immigration Conditions are also unconstitutional as an unlawful encroachment on the constitutional province of the States under the Spending Clause and the Tenth

Amendment. Although the Spending Clause allows Congress to decide how to spend funds, the Civil Immigration Conditions exceed Congress's authority under the Spending Power in multiple respects.

288. *First*, federal grant conditions are illegitimate if they are unrelated to the purposes of project to which they are attached. *South Dakota v. Dole*, 483 U.S. 203, 207-08 (1987). The Civil Immigration Conditions fail this test, as none relate to the programmatic goals of the grant programs that Congress created: supporting state emergency preparedness and response efforts.

289. *Second*, States must be able to reject Civil Immigration Conditions in both theory and fact. Where, as here, the size of the financial inducement at stake goes much further than “mild encouragement,” the coercive act amounts to an unconstitutional “gun to the head.” *NFIB*, 567 U.S. at 580 (opinion of Roberts, C.J.). Here, DHS threatens to deprive Plaintiff States of all DHS funding—“not merely a ‘relatively small percentage,’ . . . but *all* of it,” *id.* at 581 (quoting *Dole*, 483 U.S. at 211)—if they do not comply with the Civil Immigration Conditions. The sums implicated by such a funding cut are significant and constitute a substantial portion of each of Plaintiff States’ emergency preparedness budget. That portion increases when accounting for how much of each of Plaintiff States’ budget is already committed to staff salaries and other items that cannot be reallocated. Losing those grants would abruptly terminate ongoing emergency management programming. Plaintiff States and millions of their residents would be placed at risk of disasters similar to those that prompted Congress to create federal grant programs after September 11 and Hurricane Katrina. The financial scale of the affected grant programs and the substantial human cost of forgoing them each render the Civil Immigration Conditions sufficiently coercive as to be unconstitutional.

290. *Finally*, when the federal government wishes to condition the States’ receipt of federal funds, it “must do so unambiguously,” *Pennhurst State Sch. & Hosp. v. Halderman*, 451

U.S. 1, 17 (1981), such that States can “exercise their choice knowingly, cognizant of the consequences of their participation.” *Dole*, 483 U.S. at 207. The Civil Immigration Conditions are hopelessly unclear, and so flunk this test too.

291. The Cooperation Condition (C.IX.1.c) requires grant recipients to “honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of an alien pursuant to a valid detainer.” But the condition offers no explanation of what “cooperation” might entail, what “joint operations” might be required, or what “information” grant recipients are being asked to share, or whether “short term detention” extends beyond normally scheduled release dates and times.

292. The Information Sharing (C.IX.1.a) and Compliance (C.IX.1.b) Conditions ask grantees to certify compliance with various federal statutes, but do not explain DHS’s interpretation of those statutes, leaving Plaintiff States in the dark on the nature and scope of the obligations they would be undertaking in certifying. *See, e.g., City & Cnty. San Francisco v. Sessions*, 349 F. Supp. 3d 924, 958 (N.D. Cal. 2018) (finding § 1373 compliance condition violated the Spending Clause where “DOJ’s evolving interpretations of the [§ 1373] certification condition further demonstrate ambiguities that prevent applicants from deciding whether to accept the funds ‘cognizant of the consequences of their participation.’”), *vacated in part on other grounds sub nom. City & Cnty. of San Francisco v. Barr*, 965 F.3d 753 (9th Cir. 2020).

293. The Benefits Condition—which requires States to certify that “[t]hey do not, and will not during the term of this award, operate any program that benefits illegal immigrants or incentivizes illegal immigration”—is likewise hopelessly ambiguous. Plaintiff States’ agencies cannot possibly identify the many individuals (and their citizenship status) who might “benefit” from one of the many programs they administer, let alone understand what DHS believes might “incentivize[] illegal immigration.”

294. For reasons including but not limited to those summarized above, Plaintiff States cannot accept the vague and unbounded Civil Immigration Conditions “knowingly, cognizant of the consequences of their participation.” *Dole*, 483 U.S. at 207.

**E. The Civil Immigration Conditions Irreparably Harm the States.**

295. The imposition of Defendants’ proposed Civil Immigration Conditions will irreparably harm the Plaintiff States.

296. Plaintiff States have received and relied on funding from the preparedness grants, the post-disaster public assistance grants, and other DHS grant programs for decades. With individual grants open for years at a time, the Plaintiff States have closely integrated grant-funded activities with their broader emergency preparedness and response budgets. The grant money pays for police special operation teams, emergency operations personnel, disaster response vehicles, cybersecurity software, and nonprofit security equipment. The Civil Immigration Conditions would force Plaintiff States to choose between immediately shutting down those efforts and leaving themselves more exposed to threats, disasters, and emergencies or allowing their law enforcement to be conscripted by federal immigration authorities, sometimes in violation of state law. These are irreparable harms that cannot be remedied through relief after the fact.

297. Should the Civil Immigration Conditions go into effect, Plaintiff States will lose access to the funds that support these vital programs or otherwise cede control of state and local law enforcement to federal immigration authorities. And many Plaintiff States will be unable to successfully apply for or receive funding under the preparedness grants, the post-disaster public assistance grants, and other DHS grant programs as long as the Conditions remain because the grant terms conflict with state law.

298. Plaintiff States are, in other words, presented with an impossible choice: forego the hundreds of millions of dollars in federal funds that Congress has appropriated and on which they

depend for critical emergency preparedness and response efforts, or face compulsory diversion of limited law enforcement resources to enforce federal immigration law beyond what state law allows or requires. And even if States agree, as noted above, they could unwittingly violate vague terms. *See supra* ¶¶ 290-94. For example, the conditions purport to allow DHS to determine *post hoc* whether recipients operate any program that “benefits illegal immigrants or incentivizes illegal immigration.”

299. Accepting the Civil Immigration Conditions would also create unique additional forms of irreparable harm for those Plaintiff States that have chosen to enact laws and policies that seek to further trust that those States have cultivated between law enforcement and immigrant communities. That loss of goodwill and trust cannot easily be restored once this litigation has concluded. If those Plaintiff States accept the Civil Immigration Conditions, thousands more crimes will go unreported each year, with those Plaintiff States unable to bring the perpetrators to justice. Members of immigrant communities will be less likely to help police officers, detectives, and prosecutors investigate crimes and press charges. The result will be—among other ills—more violent crime, trafficking in illegal guns and drugs, and ongoing, irreparable harm to public safety.

### **FIRST CAUSE OF ACTION**

#### **Violation of the Administrative Procedure Act Arbitrary and Capricious Agency Action**

300. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs.

301. Under the APA, a court must set aside final agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” 5 U.S.C. § 706(2)(A); *see Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 52 (1983) (agency action must be supported by a “rational connection between the facts found and the choice made”); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (agency

must provide “reasoned explanation” for departing from prior policy and must provide “a more detailed justification than what would suffice for a new policy” when “its prior policy has engendered serious reliance interests that must be taken into account”); *accord FDA v. Wages & White Lion Invs., LLC*, 145 S. Ct. 898, 917 (2025).

302. DHS failed to comply with these bedrock requirements in multiple respects. First, DHS failed to consider “an important aspect of the problem,” *State Farm*, 463 U.S. at 4: whether the federal grant statutes that Congress created and charged it with administering actually allowed it to condition access to grant funds on Plaintiff States’ agreeing to lend state resources to federal immigration enforcement. DHS here made no effort whatsoever to ascertain whether these grant statutes permitted it to impose the Civil Immigration Conditions, instead simply imposing an across-the-board set of terms and conditions that fundamentally alter the nature of the grant programs at issue. Its failure to even consider the legality of its actions violates the APA.

303. Second, DHS “failed to address whether there was ‘legitimate reliance’ on” the existing funding landscape—which there was. *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 30 (2020). Plaintiff States rely on the annual receipt of funds that the Civil Immigration Conditions now endanger, relying on billions of dollars in federal funding annually to support critical programs like terrorism prevention, emergency management, disaster relief, and infrastructure protection. DHS not only failed to “weigh” these longstanding and substantial reliance interests “against competing policy concerns,” it simply “ignore[d]” them. *Regents*, 591 U.S. at 30-33.

304. Third, DHS likewise “entirely failed to consider” the adverse impact on criminal enforcement and public safety if States were to adhere to the Civil Immigration Conditions. *State Farm*, 463 U.S. at 43. Under those conditions, States “must agree that they will comply” with requirements “related to coordination and cooperation with [DHS] and immigration officials.” But some States limit their participation in federal civil immigration enforcement to “build trust

between their law enforcement agencies and immigrant communities and ensure that noncitizens feel comfortable reporting crimes, cooperating with investigators, and serving as witnesses.” *Providence*, 954 F.3d at 30. DHS altogether failed to weigh that interest against its own policy preferences. It violated the APA in doing so.

305. The Civil Immigration Conditions will cause harm to Plaintiffs and their residents.

## **SECOND CAUSE OF ACTION**

### ***Ultra Vires Agency Action Not Authorized by Congress***

306. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs.

307. An executive agency “has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm’n*, 476 U.S. at 374.

308. Defendants may exercise only that authority which is conferred by statute. *See City of Arlington v. FCC*, 569 U.S. 290, 297 (2013) (federal agencies’ “power to act and how they are to act is authoritatively prescribed by Congress, so that when they act improperly, no less than when they act beyond their jurisdiction, what they do is ultra vires”).

309. Federal courts possess the power in equity to grant injunctive relief “with respect to violations of federal law by federal officials.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326-27 (2015). Indeed, the Supreme Court has repeatedly allowed equitable relief against federal officials who act “beyond th[e] limitations” imposed by federal statute. *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689 (1949).

310. Defendants lack the statutory authority to impose the Civil Immigration Conditions. No provision of DHS’s authorizing statutes authorizes the agency to impose these terms, and the statutes authorizing Defendants to administer specific grant programs also preclude their imposition.

311. In imposing the Civil Immigration Conditions, Defendants exceeded the statutory authority granted to DHS by Congress. The Civil Immigration Conditions are therefore ultra vires executive agency actions.

312. The Civil Immigration Conditions will cause harm to Plaintiffs and their residents.

### **THIRD CAUSE OF ACTION**

#### **Violation of Administrative Procedure Act Agency Action in Excess of Statutory Authority**

313. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs.

314. The APA requires that a court set aside agency action that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

315. Defendants lack the statutory authority to impose the Civil Immigration Conditions. No provision of DHS’s authorizing statutes authorizes the agency to impose these terms, and the statutes authorizing Defendants to administer specific grant programs also preclude their imposition.

316. In imposing the Civil Immigration Conditions, Defendants exceeded the statutory authority granted to DHS by Congress. The Civil Immigration Conditions therefore must be set aside under the APA.

317. The Civil Immigration Conditions will cause harm to Plaintiffs and their residents.

318. Pursuant to 5 U.S.C. § 706 and 28 U.S.C. § 2201, Plaintiffs are entitled to a declaration that Defendants lack authority to impose the Civil Immigration Conditions, and a permanent injunction preventing the Defendants from putting those conditions into effect.

### **FOURTH CAUSE OF ACTION**

#### **Violation of the U.S. Constitution Spending Clause**

319. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs.

320. The Constitution vests the spending power in Congress, not the President or any executive agency. U.S. Const. art. I § 8, cl. 1.

321. Even if Congress had delegated the authority to Defendants to impose the Civil Immigration Conditions, the U.S. Constitution prohibits grant conditions that are “so coercive as to pass the point at which pressure turns into compulsion.” *South Dakota v. Dole*, 483 U.S. 203, 211 (1987). Furthermore, the U.S. Constitution prohibits imposing condition on federal grant programs that are wholly unrelated to the purpose of the programs. *Id.* at 207-08. Finally, the U.S. Constitution permits only unambiguous federal funding conditions. *Id.* at 207. These limits “ensur[e] that Spending Clause legislation does not undermine the status of the States as independent sovereigns in our federal system,” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 577 (2012), as embodied in the Tenth Amendment.

322. DHS’s attempt to impose the Civil Immigration Conditions violates all these constitutional limits. First, DHS’s threat to restrict all agency funding to Plaintiff States “is much more than ‘relatively mild encouragement’—it is a gun to the head” for Plaintiff States. *NFIB*, 567 U.S. at 581 (opinion of Roberts, C.J.); *see also id.* (holding threats to funding as coercive in violation of the Spending Clause because a State “stands to lose not merely ‘a relatively small percentage’” of funding from the agency, “but *all* of it”). Plaintiff States receive over \$1 billion annually in funding from FEMA preparedness grants, based on the sums they were allocated in FY2024 from the SHSP, UASI, EMPG, SLCGP, and NSGP programs. And FEMA has obligated over \$22 billion to the Plaintiff States in disaster relief funding since 2017, amounting to an annual average of over \$2 billion per year.

323. Second, the Civil Immigration Conditions are not related to the federal interest in the projects to which they are attached—namely, Congress’s long commitment to furthering state emergency preparedness and relief purposes. *See Dole*, 483 U.S. at 207-08.

324. Finally, the Civil Immigration Conditions are impermissibly vague. *See Pennhurst*, 451 U.S. at 17.

325. Federal courts possess the power in equity to “grant injunctive relief . . . with respect to violations of federal law by federal officials.” *Armstrong*, 575 U.S. at 327. “[T]he President’s actions may . . . be reviewed for constitutionality.” *Franklin v. Massachusetts*, 505 U.S. 788, 801 (1992). Plaintiff States are “entitled to invoke the equitable jurisdiction to restrain enforcement” of unconstitutional acts by federal officials, including “executive orders.” *Panama Ref. Co. v. Ryan*, 293 U.S. 388, 414 (1935).

326. As a direct and proximate result of DHS’s action, Plaintiffs will be required either to accept the unlawful and unconstitutional Civil Immigration Conditions or forego receiving grant funds that are necessary to support critical emergency preparedness and emergency response programs and initiatives in Plaintiff States.

327. The Civil Immigration Conditions will cause harm to Plaintiffs and their residents.

## **FIFTH CAUSE OF ACTION**

### **Violation of Administrative Procedure Act Agency Action Contrary to Constitutional Right**

328. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs.

329. The APA requires that a court set aside agency action that is “contrary to constitutional right, power, privilege, or immunity.” 5 U.S.C. § 706(2)(B).

330. The Civil Immigration Conditions violate the Spending Clause, for the reasons set out above. *Supra* ¶¶ 320-24.

331. The Civil Immigration Conditions will cause harm to Plaintiffs and their residents.

332. Pursuant to 5 U.S.C. § 706 and 28 U.S.C. § 2201, Plaintiffs are entitled to a declaration that Defendants lack authority to impose the Civil Immigration Conditions, and a permanent injunction preventing the Defendants from putting those conditions into effect

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that the Court:

- a. Declare that the Defendants' promulgation of the Civil Immigration Conditions on receipt of funds under the grant programs they administer are contrary to the Constitution and laws of the United States;
- b. Declare that the adoption of the Civil Immigration Conditions and any actions taken by Defendants agencies to implement or enforce them violate the Administrative Procedure Act;
- c. Preliminarily and permanently enjoin Defendants from implementing or enforcing the Civil Immigration Conditions against Plaintiff States, including their subdivisions and instrumentalities, as to any grant program administered by Defendants;
- d. Vacate the Defendants' adoption of the Civil Immigration Conditions, and any actions taken by Defendants to implement or enforce them;
- e. Issue a writ of mandamus or, in the alternative, preliminary and permanent mandatory injunctive relief compelling Defendants to immediately send notices of funding opportunity and award letters that do not include the Civil Immigration Conditions to Plaintiff States, their subdivisions, and their instrumentalities, as appropriate;
- f. Retain jurisdiction to monitor Defendants' compliance with this Court's judgment;
- g. Award the States their reasonable fees, costs, and expenses, including attorneys' fees, pursuant to 28 U.S.C. § 2412; and

h. Award such additional relief as this Court may deem just and proper.

May 13, 2025

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# **EXHIBIT A**

Secretary

U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

February 19, 2025

## MEMORANDUM FOR ALL AGENCIES AND OFFICES

FROM: Kristi Noem  
SecretarySUBJECT: **Restricting Grant Funding for Sanctuary Jurisdictions**

Following the horrific attacks on this country on September 11, 2001, the American people trusted their leaders to make sure it would never happen again. Among the circumstances that led to those attacks was the failure to treat immigration as a national security issue. The 9/11 Commission Report, for example, recognized that “the institutions charged with protecting our borders . . . did not understand how grave th[e] threat could be.” 9/11 Commission Report at xvi. The Commission also specifically noted that there were, at that time, “9 million people . . . in the United States outside the legal immigration system.” *Id.* at 390. A second factor recognized by the Commission was the failure of different law enforcement entities to share information. The Report recognized “pervasive problems of managing and sharing information across a large and unwieldy government.” *Id.* at xvi.

The year after those terrible attacks, President George W. Bush signed into the law the Homeland Security Act of 2002. The Act created the Department of Homeland Security (DHS), and it transferred into that new agency a number of important national security components, including those responsible for immigration enforcement. Congress expressly found that “State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.” 6 U.S.C. § 481(b)(8). Congress also found that “[t]he Federal Government relies on State and local personnel to protect against terrorist attack.” *Id.* § 481(b)(2).

The bottom line is that partnership is an essential element of our national security and public safety mission. And that mission undoubtedly includes immigration enforcement. State and local governments that refuse to cooperate with, refuse to share information with, or even actively obstruct federal immigration enforcement reject these ideals and the history we share in common as Americans. If any government entity chooses to thumb its nose at the Department of Homeland Security’s national security and public safety mission, it should not receive a single dollar of the Department’s money unless Congress has specifically required it.

For purposes of this memorandum, “sanctuary jurisdictions” include the following:

- Jurisdictions that fail to comply with the information sharing requirements of 8 U.S.C. §§ 1373 and 1644.

Prohibiting Grant Funding for Sanctuary Jurisdictions

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- Jurisdictions that violate other relevant laws, including prohibitions on encouraging or inducing an alien to come to, enter, or reside in the United States in violation of law, 8 U.S.C. § 1324(a)(1)(A)(iv), prohibitions on transporting or moving illegal aliens, *id.* § 1324(a)(1)(A)(ii), prohibitions on harboring, concealing, or shielding from detection illegal aliens, *id.* § 1324(a)(1)(A)(iii), and any applicable conspiracy, aiding or abetting, or attempt liability respecting these statutes.
- Jurisdictions that fail to honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of alien pursuant to a valid detainer. A jurisdiction, however, is not a sanctuary jurisdiction merely because it lacks the necessary resources to assist in a particular instance.
- Any jurisdiction that fails to provide access to detainees, such as when an immigration officer seeks to interview a person who might be a removable alien.
- Any jurisdiction that leaks the existence of an enforcement operation.

All components are to review all federal financial assistance awards to determine if Department funds, directly or indirectly, are going to sanctuary jurisdictions. To the extent consistent with relevant legal authorities and the applicable terms and conditions of each award, each component must cease providing federal funding to sanctuary jurisdictions. Components should also make appropriate criminal referrals to the Department of Justice where illegal conduct is discovered.

For questions regarding applicable legal authorities, components must consult with the General Counsel or his designee. For questions regarding whether a particular jurisdiction is a sanctuary jurisdiction, components must consult with the Director of Immigration and Customs Enforcement and the Commissioner of Customs and Border Protection or their designees.

Within 30 days, each component shall provide a report to the Undersecretary for Management with a summary of actions taken to comply with this memorandum.

# **EXHIBIT B**

U.S. Department of Homeland Security  
Washington, DC 20472




**FEMA**

March 20, 2025

**DECISION**

MEMORANDUM FOR: Kristi Noem  
Secretary of the Department of Homeland Security

FROM: Cameron Hamilton   
Senior Official Performing the Duties of the Administrator  
Federal Emergency Management Agency

SUBJECT: **Approval of FEMA-Administered Grant Disbursements**

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**Purpose:** To seek approval on the review process and parameters of grant programs administered by the Federal Emergency Management Agency (FEMA) to align with Administration and Secretary priorities on non-governmental organizations, immigration, and sanctuary jurisdictions.

**Background:** On Jan. 28, 2025, the Secretary of the Department of Homeland Security (DHS) issued a memo to components and agency heads entitled "*Direction on Grants to Non-governmental Organizations*," which required the development and implementation of a process to review payments and obligations for grants that "(1) go to non-profit organizations or for which non-profit organizations are eligible and (2) touch in any way on immigration." In accordance with this instruction, FEMA is recommending the implementation of additional processes to review certain grants prior to releasing funds, as outlined in this memo.

The Secretary also issued a memo on Feb. 19, 2025, "*Restricting Grant Funding for Sanctuary Jurisdictions*," instructing all components to "review all federal financial assistance awards to determine if Department funds, directly or indirectly, are going to sanctuary jurisdictions." In compliance with this memo, FEMA is providing recommendations for which grant programs sanctuary jurisdiction conditions should apply.

**Appendix A** provides a programmatic overview of all FEMA programs.

**Action: FEMA Recommendations for Approval**

1. The grant programs for which sanctuary jurisdiction conditions or restrictions should be applied;
2. The methodology FEMA will use to assess disaster and non-disaster grant programs in accordance with the Secretary's direction on non-governmental organizations (NGOs) and immigration; and
3. FEMA's recommended determinations for each grant program.

**Action Item 1: FEMA Proposed Sanctuary Jurisdiction Programs and Applicability**

FEMA recommends applying conditions or restrictions on FEMA administered non-disaster preparedness grant programs that go to a sanctuary jurisdiction as designated by U.S. Immigration and Customs Enforcement (ICE) and:

- a. where the purpose of the grant has a nexus to immigration activities, law enforcement, or national security; or,
- b. where statute does not limit how FEMA implements the program.

Based on the criteria above, FEMA recommends the conditions or restrictions be placed on all open and future awards for the following 12 programs<sup>1</sup>:

1. Case Management Pilot Program (CMPP);
2. Emergency Management Performance Grant (EMPG);
3. Homeland Security Grant Program – Operation Stonegarden (OPSG);
4. Homeland Security Grant Program – State Homeland Security Program (SHSP);
5. Homeland Security Grant Program – Urban Area Security Initiative;
6. Homeland Security National Training Program - Continuing Training Grants - Competitive (HSNTP-CTG);
7. Port Security Grant Program (PSGP);
8. Presidential Residence Protection Assistance Grant Program (PRPA);
9. Regional Catastrophic Preparedness Grant Program (RCPGP);
10. Shelter and Services Program (SSP);
11. Targeted Violence and Terrorism Prevention Grant Program (TVTP); and
12. Transit Security Grant Program (TSGP); and

As noted above, application of conditions or restrictions will vary based on the structure or authority of each respective program.<sup>2</sup> FEMA will assess each grant and submit proposed program implementation recommendations to the General Counsel for a legal determination as appropriate. These program implementation recommendations will include how the conditions or restrictions apply to prime awards, sub-awards, and existing awards and payments.

FEMA recommends conditions or restrictions on sanctuary jurisdictions not apply to disaster grants, non-disaster mitigation grants, and grants to fire departments and organizations that comprise the National Urban Search and Rescue Response System.

To implement guidance from the Secretary's memo, "*Restricting Grant Funding for Sanctuary Jurisdictions*," FEMA has categorized disaster and non-disaster programs into two risk profiles using the above criteria. FEMA recommends approval of the proposed methodology:

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<sup>1</sup> While the Tribal Homeland Security Grant Program meets the criteria outlined above, FEMA did not include it for sanctuary jurisdiction conditions or restrictions due to Tribal sovereignty.

<sup>2</sup> See Appendix A for additional information on program eligibility.

**Image A: Proposed Sanctuary Jurisdictions Risk Methodology**

Sanctuary Jurisdiction Does Not Apply	Sanctuary Jurisdiction Applies
<ul style="list-style-type: none"> <li>Grant programs that: <ul style="list-style-type: none"> <li>Do not go to sanctuary jurisdiction; or</li> <li>Are disaster or non-disaster mitigation grants; or</li> <li>Are non-disaster grants with no nexus to immigration activities, law enforcement, or national security; or</li> <li>Are limited by statute.</li> </ul> </li> <li>These programs/projects <u>should move forward without additional review.</u></li> </ul>	<ul style="list-style-type: none"> <li>Grant programs that: <ul style="list-style-type: none"> <li>Go to a designated sanctuary jurisdiction; or</li> <li>Are non-disaster grants; <u>and</u></li> <li>Have a nexus to immigration activities, law enforcement, or national security; or</li> <li>Are not limited by statute.</li> </ul> </li> <li>These programs/projects <u>require additional review by DHS review.</u></li> </ul>
Clears through existing program controls and review processes	Project identified as meeting S1 criteria, requires DHS review

Approve/date

Disapprove/date

Modify/date

Needs discussion/date

**Action Item 2: FEMA Proposed NGO/Immigration Grant Risk Assessment Methodology**

To implement guidance from the Secretary's memo, "*Direction on Grants to Non-governmental Organizations*," FEMA has categorized all disaster and non-disaster grant programs into three risk profiles. In considering the risk level, FEMA will evaluate whether the intent and primary purpose of the grant relates to the nexus of immigration. The intent is to ensure that FEMA's grant programs do not encourage or induce illegal immigration or illegal harboring of illegal aliens or any other unlawful activity. This information will lead to the determination of their risk profile as outlined in Image B. FEMA recommends approval of the proposed methodology:

**Image B: Proposed NGO/Immigration Risk Assessment Methodology**

Low Risk	Medium Risk	High Risk
<ul style="list-style-type: none"> <li>Low likelihood that grant disbursements (1) go to NGOs, <u>and</u> (2) touch in any way on immigration.</li> <li>These programs/projects <u>should move forward without additional review.</u></li> </ul>	<ul style="list-style-type: none"> <li>Further analysis required to determine likelihood. Indeterminate risk that grant disbursements (1) go to NGOs, <u>and</u> (2) touch in any way on immigration.</li> <li>These programs/projects <u>are pending review by FEMA to assess low or high risk, with concurrence from DHS.</u></li> </ul>	<ul style="list-style-type: none"> <li>High likelihood that grant disbursements (1) go to NGOs, <u>and</u> (2) touch in any way on immigration.</li> <li>These programs/projects <u>require additional review by DHS.</u></li> </ul>
Clears through existing program controls and review processes	Requires FEMA review to assess high or low risk with concurrence from DHS	Project identified as meeting S1 criteria, requires DHS review

Approve/date

Disapprove/date

Modify/date

Needs discussion/date

**Action Item 3: Approval of FEMA's Recommended Determinations**

In accordance with the above methodologies for non-disaster and disaster grants, FEMA recommends approval of the determinations by grant program as outlined in the table below. The recommended determinations are:

- **Green:** Cleared by FEMA to undergo the existing program controls and review processes. Programs have been identified to have a low likelihood of grant disbursements to NGOs **and** low likelihood of a nexus to immigration, and the sanctuary jurisdiction restriction do not apply. Grants with a "green" assessment are approved to move forward with payment consistent with FEMA's existing processes without additional review by DHS.
- **Yellow:** Pending review by FEMA to conduct additional analysis on the projects and awards to determine likelihood of grant disbursements to NGOs with an immigration nexus. Sanctuary jurisdiction restrictions do not apply. As FEMA completes the analysis, FEMA will submit decision memos to DHS to recommend a grant program be moved to green or red status. FEMA will also submit yellow payments weekly for DHS consideration and approval if payment can move forward.
- **Red:** For DHS review and approval of payment requests or evaluation for termination of grant program. Programs have been identified to have a high likelihood of grant disbursements to NGOs and immigration nexus, and/or meets the sanctuary jurisdiction restrictions. FEMA will conduct an assessment and provide recommendations to DHS on whether payments should be denied or approved. In the recommendation, FEMA will review the sanctuary jurisdictions identified by U.S. Immigration and Customs Enforcement (ICE) and specifically notate the jurisdictional restrictions. The recommendation will consider, among other things, the purpose and intent of the grant, the benefits to the DHS mission and risks, and the context of which organization is receiving the award. For example, is the individual grant award going to a county government who is not on the ICE sanctuary jurisdiction list, but the state is on the list. FEMA will also provide recommendations on if programs and/or individual grant awards should be terminated based on the Secretary's guidance.

Approve/date

Disapprove/date

Modify/date

Needs discussion/date

**TABLE A: All FEMA Grant Programs and Recommended Review**

<b>AFT</b>	<b>Program</b>	<b># of Open Awards</b>	<b>ULO Balance*</b>	<b>Risk of NGO / Immigration</b>	<b>Apply Sanctuary Jurisdiction</b>	<b>Recommended Determination</b>
DRF	Community Disaster Loans (CDL)	44	\$93,791,763	Low	No	Cleared by FEMA
DRF	Disaster Unemployment Assistance (DUA)	18	\$49,847,337	Low	No	Cleared by FEMA
DRF	Fire Management Assistance Grants (FMAG) – previously included as part of Public Assistance – Grants to State & Local	124	\$52,479,916	Low	No	Cleared by FEMA
DRF	Hazard Mitigation Grant Program (HMGP)	386	\$4,414,617,261	Low	No	Cleared by FEMA
DRF	Hazard Mitigation Grant Program Post Fire (HMGP Post Fire)	269	\$58,007,937	Low	No	Cleared by FEMA
DRF	Individual and Households Program (IHP)	N/A	\$380,898,640	Low	No	Cleared by FEMA
DRF	Public Assistance – Grants to State & Local	44,266	\$73,241,454,318	Low	No	Cleared by FEMA
DRF	Urban Search and Rescue (US&R)	NA	\$141,254,817	Low	No	Cleared by FEMA
FA	Alliance for System Safety of Unmanned Aircraft Systems through Research Excellence (ASSURE)	4	\$4,669,770	Low	No	Cleared by FEMA
FA	Assistance to Firefighter Grants (AFG)	3801	\$464,132,184	Low	No	Cleared by FEMA
FA	Building Resilient Infrastructure and Communities (BRIC)	1365	\$1,154,059,629**	Low	No	Cleared by FEMA
FA	Chemical Stockpile Emergency Preparedness Program (CSEPP)	9	\$26,180,310	Low	No	Cleared by FEMA
FA	Community Assistance Program State Support Services Element (CAP-SSSE)	76	\$11,587,984	Low	No	Cleared by FEMA

AFT	Program	# of Open Awards	ULO Balance*	Risk of NGO / Immigration	Apply Sanctuary Jurisdiction	Recommended Determination
FA	Cooperating Technical Partners (CTP)	480**	\$239,537,976**	Low	No	Cleared by FEMA
FA	Emergency Management Baseline Assessments Grant (EMBAG)	3**	\$127,416**	Low	No	Cleared by FEMA
FA	Emergency Operations Center (EOC)	95	\$228,725,861	Low	No	Cleared by FEMA
FA	Fire Prevention and Safety (FP&S)	373	\$80,643,658	Low	No	Cleared by FEMA
FA	Flood Mitigation Assistance (FMA)	473	\$909,252,393	Low	No	Cleared by FEMA
FA	Flood Mitigation Assistance Swift Current (FMA Swift)	14	\$0**	Low	No	Cleared by FEMA
FA	Homeland Security Preparedness Technical Assistance Program (HSPTAP)	4	\$406,557	Low	No	Cleared by FEMA
FA	Homeland Security National Training Program (HSNTP) - National Domestic Preparedness Consortium (NDPC)	17	\$134,067,348	Low	No	Cleared by FEMA
FA	HSNTP– National Cybersecurity Preparedness Consortium	5	\$16,906,852	Low	No	Cleared by FEMA
FA	Intercity Bus Security Grant Program (IBSGP)	59	\$2,905,029	Low	No	Cleared by FEMA
FA	National Dam Safety Program and Rehabilitation of High Hazard Potential Dams Grant Program (HHPD)	207	\$244,022,266	Low	No	Cleared by FEMA
FA	National Earthquake Hazards Reduction Program (NEHRP) and Multi-State and National Earthquake Assistance (MSNEA) Grant Program	62	\$4,876,775	Low	No	Cleared by FEMA
FA	National Fire Academy Training Assistance (NFATA)	10	\$1,446,388	Low	No	Cleared by FEMA

AFT	Program	# of Open Awards	ULO Balance*	Risk of NGO / Immigration	Apply Sanctuary Jurisdiction	Recommended Determination
FA	National Incident Management System (NIMS)	3	\$2,208,411**	Low	No	Cleared by FEMA
FA	National Urban Search and Rescue (US&R)	153	\$66,105,406	Low	No	Cleared by FEMA
FA	Next Generation Warning System Grant Program (NGWSGP) <sup>1</sup>	3	\$134,196,015	Low	No	Cleared by FEMA
FA	Pre-Disaster Mitigation (PDM)	99	\$504,369,174	Low	No	Cleared by FEMA
FA	Safeguarding Tomorrow Revolving Loan Fund/Safeguarding Tomorrow through Ongoing Risk Mitigation Act (STORM)	9	\$51,397,697	Low	No	Cleared by FEMA
FA	Staffing For Adequate Fire and Emergency Response (SAFER)	1125	\$1,148,541,961**	Low	No	Cleared by FEMA
FA	State and Local Cybersecurity Grant Program (SLCGP)	161	\$760,367,208	Low	No	Cleared by FEMA
FA	State Fire Training Systems Grants (SFT)	59	\$876,377	Low	No	Cleared by FEMA
FA	Tribal Cybersecurity Grant Program (TCGP)	31	\$17,620,204	Low	No	Cleared by FEMA
FA	Tribal Homeland Security Grant Program (THSGP)	77	\$42,539,321	Low	No	Cleared by FEMA
DRF	Crisis Counseling Program (CCP)	63	\$53,020,947	Medium	No	Pending Review

<sup>1</sup> The Corporation for Public Broadcasting has filed a lawsuit in the District of Columbia District Court on March 13, 2025, contending that FEMA's manual payment review process for NGWSGP awards was arbitrary and capricious in violation of the Administrative Procedures Act. If FEMA's recommended approach to categorizing the NGWSGP as "Cleared by FEMA" is approved, FEMA will make appropriate payments to the CPB using the manual payment review process.

AFT	Program	# of Open Awards	ULO Balance*	Risk of NGO / Immigration	Apply Sanctuary Jurisdiction	Recommended Determination
DRF	Disaster Case Management (DCM)	44	\$182,577,136	Medium	No	Pending Review
DRF	Disaster Legal Services (DLS)	11	\$95,000	Medium	No	Pending Review
DRF	Public Assistance – NGOs	7,234	\$8,498,374,550	Medium	No	Pending Review
DRF	Public Assistance – Non-Congregate Sheltering	284	\$1,297,129,208	Medium	No	Pending Review
FA	Emergency Food and Shelter Program (EFSP)	12	\$251,590,333	Medium	No	Pending Review
FA	Nonprofit Security Grant Program (NSGP) <sup>2</sup>	400	\$943,940,157	Medium	No	Pending Review
FA	Emergency Management Performance Grant (EMPG)	206	\$476,990,846	Low	Yes	DHS Review
FA	Homeland Security Grant Program – Operation Stonegarden (OPSG)	87	\$170,946,880	Low	Yes	DHS Review
FA	Homeland Security Grant Program – State Homeland Security Program (SHSP)	203	\$761,745,900	Low	Yes	DHS Review
FA	Homeland Security Grant Program – Urban Area Security Initiative (UASI)	104	\$1,919,725,009	Low	Yes	DHS Review
FA	Homeland Security National Training Program (HSNTP) - Continuing Training Grants Program - Competitive (CTG)	15	\$15,525,591	Low	Yes	DHS Review
FA	Port Security Grant Program (PSGP)	787	\$266,441,010	Low	Yes	DHS Review
FA	Presidential Residence Protection Assistance (PRPA)	2	\$2,241,788**	Low	Yes	DHS Review
FA	Regional Catastrophic Preparedness Grant Program (RCPGP)	41	\$36,087,421	Low	Yes	DHS Review

<sup>2</sup> While State Administrative Agencies (SAA) are the direct recipients of NSGP funding, awards are passed through to nonprofit organizations that are not subject to the sanctuary jurisdiction conditions or restrictions as described in the criteria above. Management and Administration costs are allowable under this grant program and may be retained by SAAs.

AFT	Program	# of Open Awards	ULO Balance*	Risk of NGO / Immigration	Apply Sanctuary Jurisdiction	Recommended Determination
FA	Targeted Violence and Terrorism Prevention Grant Program (TVTP)	122	\$34,939,702	Medium	Yes	DHS Review
FA	Transit Security Grant Program (TSGP) / Intercity Passenger Rail (IPR)***	84	\$283,147,532	Low	Yes	DHS Review
FA	Case Management Pilot Program (CMPP)	4	\$47,201,306	High	Yes	DHS Review for Termination
FA	Emergency Food and Shelter Program – Humanitarian (EFSP-H) <sup>3</sup>	3**	\$46,050,064**	High	No	DHS Review for Termination
FA	Shelter and Services Program (SSP)	156**	\$887,107,461	High	Yes	DHS Review for Termination
<b>TOTAL</b>			<b>\$100.859B</b>			

\* ULOs are as of Jan. 28, 2025.

\*\* Chart updated with revised figures. After further review, inaccuracies were identified in previous data that have now been corrected.<sup>4</sup> Previous FMA Swift Current number reflected unobligated amount rather than unliquidated.

\*\*\* Sanctuary jurisdiction conditions would apply to Transit Security Grant Program (TSGP) and not Intercity Passenger Rail (IPR).

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<sup>3</sup> For EFSP-H, all spending periods for subawards have expired and the provision of services under the sunset program has ended. The remaining amount is funding reserved for management and administration (approximately \$4 million) for the grantee and funds returned by the board.

**TABLE B: Summary of Unliquidated Obligation (ULO) by Recommended Risk Determination**

FEMA is reviewing all grants at a programmatic level, and also at the individual grant award level to understand the existing information available, and where additional research within the system can be conducted or where information from recipients will need to be collected. As the policy decisions and process are under development, FEMA has begun and will continue the individual grant award manual payment review process in preparation for the approach and methodology being approved. This manual review process requires significant staff time, but once the backlog is cleared, the process will operate on a much shorter processing time.

<b>Risk Determination</b>	<b>Disaster Grants ULO</b>	<b>Non-Disaster Grant ULO</b>	<b>Total</b>	<b>Backlog Processing Time*</b>
<b>Cleared by FEMA</b>	\$78,432,351,989	\$6,251,770,170	\$84,684,122,159	45 days
<b>Pending FEMA Review</b>	\$10,031,196,841	\$1,195,530,490	\$11,226,727,331	90 days
<b>Recommend DHS Review</b>	N/A	\$3,967,791,679	\$3,967,791,679	60 days
<b>Recommended Terminated Programs</b>	N/A	\$980,358,831	\$980,358,831	60 days
<b>Total</b>	<b>\$88,463,548,830</b>	<b>\$12,395,451,170</b>	<b>\$100.859B</b>	

\*This estimate includes the approximately 1,450 payment requests already submitted in FEMA grants systems only. It is not inclusive of the total ULO because payment requests will continue to be submitted for these programs as the work is completed throughout the period of performance, which for some programs may be up to three years.

**Appendix A**  
**Federal Emergency Management Agency Grant Programs Overview**  
**Background/Purpose**

On Feb. 19, 2025, Secretary Noem issued a memorandum *Restricting Grant Funding for Sanctuary Jurisdictions* and directed all components to review all federal financial assistance awards to determine if Department funds, directly or indirectly, are going to sanctuary jurisdictions (hereinafter “S1 Memo”). Appendix A below provides an overview of each FEMA administered grant program, to include the purpose of each grant program and the award criteria (i.e. whether the award criteria are discretionary or governed by statutory or regulatory competition, allocation, or eligibility criteria).

**Recommended Determination: Cleared by FEMA**

**1. Community Disaster Loans (42 U.S.C. §§ 5121, et seq.)**

Purpose: Provides funding for local governments to operate their essential community services after substantial revenue loss caused by a disaster.

Award Criteria: Statutory and regulatory eligibility criteria.

**2. Disaster Unemployment Assistance (42 U.S.C. §§ 5121, et seq.)**

Purpose: Assistance to individuals unemployed as a result of a major disaster administered through a grant to the declared state or tribe.

Award Criteria: Statutory and regulatory eligibility criteria.

**3. Fire Management Assistance Grants (42 U.S.C. §§ 5121, et seq.)**

Purpose: The mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

Award Criteria: Statutory and regulatory eligibility criteria.

**4. Hazard Mitigation Grant Program (42 U.S.C. § 5170c)**

Purpose: To help communities implement hazard mitigation measures, such as elevation, acquisition, and flood control projects, to reduce or eliminate long-term risk to people and property from natural hazards following a presidential major disaster declaration under the Stafford Act.

Award Criteria: Statutory and regulatory eligibility criteria.

**5. Hazard Mitigation Grant Program – Post Fire (42 U.S.C. § 5170c(a); 42 U.S.C. § 5187(d))**

Purpose: Makes assistance available to help communities implement hazard mitigation measures after wildfire disasters.

Award Criteria: Statutory and regulatory eligibility criteria. States, federally recognized tribes and territories affected by fires resulting in a Fire Management Assistance Grant (FMAG) declaration on or after Oct. 5, 2018, are eligible to apply.

**6. Individual and Households Programs (IHP) (42 U.S.C. §§ 5121, et seq.)**

Purpose: Provides financial and direct services to eligible individuals and households affected by a disaster, who have uninsured or under-insured necessary expenses and serious needs. IHP assistance is not a substitute for insurance and cannot compensate for all losses caused by a disaster. The assistance is intended to meet your basic needs and supplement disaster recovery efforts.

Award Criteria: Statutory and regulatory eligibility criteria.

**7. Urban Search & Rescue (US&R) (42 U.S.C. §§ 5121, et seq)**

Purpose: Provides reimbursement for lifesaving rescue operations that were performed by Federal Urban Search and Rescue teams during declared disaster.

Award Criteria: Statutory and regulatory eligibility criteria.

**8. Public Assistance – State and Local (42 U.S.C. §§ 5121, et seq.)**

Purpose: Financial assistance to states, tribal, territorial, and local governments for debris removal, for emergency work to support public safety, and for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster.

Award Criteria: Noncompetitive, but with statutory and regulatory eligibility criteria.

**9. Homeland Security National Training Program (HSNTP) – Alliance for System Safety of Unmanned Aircraft Systems through Research Alliance (Title III of the Department of Homeland Security Appropriations Act, 2024, (Pub. L. No. 118-47); Joint Explanatory Statement accompanying the Department of Homeland Security Appropriations Act, 2024)**

Purpose: Provides funding for Mississippi State University's Federal Aviation Administration Center of Excellence for Unmanned Aircraft Systems (ASSURE) to support and target training solutions for state, local, tribal and territorial partners, which supports the objective of the National Preparedness System to facilitate an integrated, whole community, risk-informed, capabilities-based approach to preparedness.

Award Criteria: Discretionary, limited statutory award criteria. Award goes to Mississippi State University's Federal Aviation Administration Center of Excellence for Unmanned Aircraft Systems.

**10. Assistance to Firefighters (15 U.S.C. § 2229)**

Purpose: Financial assistance to fire departments, EMS organizations, and state fire training academies to enhance their ability to protect the health and safety of the public, as well as that of firefighting and EMS personnel against fire, fire-related, and other hazards.

Award Criteria: Competitive award with statutorily mandated criteria and peer review and statutory allocation requirements.

**11. Building Resilient Infrastructure and Communities (42 U.S.C. §§ 5133, 5136)**

Purpose: Makes federal funds available to states, the District of Columbia, U.S. territories, federally recognized Tribal governments, and local governments for hazard mitigation activities. BRIC aims to shift the focus of federal investments away from reactive, post-disaster spending and toward research-supported, proactive investments in community resilience. These investments aim to reduce future disaster losses, including loss of life and property as well as future spending from the Disaster Relief Fund (DRF). BRIC focuses on cost-effective mitigation measures including protecting public infrastructure so that critical services can withstand or more rapidly recover from future disasters, as well as other projects and activities to increase resilience throughout the nation.

Award Criteria: For the FY23 NOFO, there was a State/Territory allocation, a Tribal Set-Aside, and a National Competition with the remaining funds that are not awarded from the State/Territory Allocation and Tribal Set-Aside.

**12. Chemical Stockpile Emergency Preparedness Program (50 U.S.C. § 1521)**

Purpose: To assist state, local, and tribal governments in carrying out functions related to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions in the United States' lethal chemical agents and munitions that existed on Nov. 8, 1985.

Award Criteria: Eligibility limited to communities in close proximity to military installations storing chemical weapons. FEMA currently awards a cooperative agreement to Kentucky who in turn pass-through subawards to local governments.

**13. Community Assistance Program – State Support Services Element (CAP-SSSE) (42 U.S.C. §§ 4101, 4102)**

Purpose: CAP-SSSE is a cooperative agreement which provides funding to state National Flood Insurance Program (NFIP) Coordinators to monitor community adoption and enforcement of the minimum floodplain management standards required for participation in the NFIP. CAP-SSSE funding is used to provide technical assistance to NFIP communities, evaluate community performance in implementing floodplain management activities, and conduct community assistance contacts and visits to ensure communities are compliant with NFIP minimum requirements and flood insurance remains available for sale within the communities.

Award Criteria: Discretionary, non-competitive award to State NFIP Coordinators, which may subaward funding to local or municipal floodplain management authorities.

#### **14. Cooperating Technical Partners (CTP) Program (42 U.S.C. § 4101)**

Purpose: To provide assistance to state, local, tribal, university, and nonprofit organizations to increase local involvement in and ownership of flood hazard identification and assessment programs. Recipients assist in the development and maintenance of flood risk data, which is used to develop or amend Flood Insurance Rate Maps and provide the baseline for communities to prepare for and mitigate against flood risks.

Award Criteria: Discretionary. No statutory criteria.

#### **15. Emergency Management Baseline Assessment Grant (6 U.S.C. § 112 (b)(2))**

Purpose: To assist the updating and enhancement of a set of standards for emergency preparedness and response and a related assessment methodology for the evaluation of state, local, and territorial emergency management operations.

Award Criteria: Discretionary, no statutory award criteria.

#### **16. Emergency Operations Center Grant Program (42 U.S.C. § 5196c)**

Purpose: Grants made available to State Administrative Agencies (SAAs) for equipping, upgrading, and constructing state, local, and tribal emergency operations centers.

Award Criteria: Eligible Emergency Operations Center projects identified in the Joint Explanatory Statement.

#### **17. Fire Prevention and Safety (15 U.S.C. § 2229)**

Purpose: Financial assistance to fire prevention programs and support for firefighter health and safety research and development.

Award Criteria: Competitive award with statutorily mandated criteria and peer review and statutory allocation requirements.

**18. Flood Mitigation Assistance (42 U.S.C. § 4104c)**

Purpose: To fund mitigation projects such as elevation, acquisition, floodproofing, and planning that reduces or eliminates long-term risk of flood damage to structures insured under the NFIP.

Award Criteria: Statutory eligibility criteria. Award determinations and funding allocations among eligible jurisdictions are made on a competitive basis with discretion to add criteria.

**19. Flood Mitigation Assistance – Swift Current (42 U.S.C. § 4104c)**

Purpose: Provides funding to mitigate buildings insured through the National Flood Insurance Program (NFIP) after a major disaster declaration following a flood-related disaster event to reduce risk against future flood damage. Funds are made available to states, territories, and federally recognized tribal governments that receive a major disaster declaration following a flood-related disaster event and meet all other eligibility criteria.

Award Criteria: Funding is only available to property owners that have a current flood insurance policy under the National Flood Insurance Program (NFIP) and a history of repetitive or substantial damage from flooding.

**20. Homeland Security Preparedness Technical Assistance Program (6 U.S.C. § 112 (b)(2))**

Purpose: To help private organization recipients to conduct planning, coordination, and training activities related to emergency management and preparedness.

Award Criteria: Discretionary, no statutory award criteria.

**21. Homeland Security National Training Program (HSNTP) - National Domestic Preparedness Consortium (NDPC) (6 U.S.C. §§ 1102 and 112 (b)(2))**

Purpose: To assist statutorily designated National Domestic Preparedness Consortium members to identify, develop, test, and deliver training to state, local, and tribal emergency response providers; provide on-site and mobile training; and facilitate delivery of training.

Award Criteria: Discretionary, limited statutory award criteria. Awards may only go to one of the six non-Federal members of the National Domestic Preparedness Consortium named in statute, which consist of five state universities and one private entity.

**22. National Cyber Security Preparedness Consortium (National Cybersecurity Preparedness Consortium Act, 2021 (Pub. L. No. 117-122))**

Purpose: Delivers over 40 training courses for more than 1,000 SLTT emergency managers, cyber network managers, and critical infrastructure professionals, annually to strengthen local, state, and national cyber and information systems and defend against and recover from cyber-attacks including attacks with cascading physical consequences.

Award Criteria: Awards may only go to one of the six non-federal members of the National Domestic Preparedness Consortium named in statute, which consist of five state universities and one private entity.

**23. Intercity Bus Security Grant Program (6 U.S.C. § 1182)**

Purpose: To make awards to eligible private operators providing transportation by an over-the-road bus for security improvements.

Award Criteria: Discretionary, competitive award based on statutory criteria that require funding decisions to prioritize security risks. The eligible applicants are private bus operators and not states or local governments.

**24. National Dam Safety Program (33 U.S.C. § 467f)**

Purpose: To enable states to increase dam safety through increased inspections, emergency action planning, improved state and federal coordination, training and workshops, and purchasing of equipment.

Award Criteria: Awards are based on eligibility criteria that are set by statute with funding allocations based on a statutory formula.

**25. Rehabilitation of High Hazard Potential Dam Program (33 U.S.C. § 467f-2)**

Purpose: Provide technical, planning, design, and construction assistance in the form of grants for rehabilitation, repair, and removal of eligible high hazard potential dams.

Award Criteria: For FY 2024, FEMA made funding available in allocations for 32 states and one territory.

**26. National Earthquake Hazards Reduction Program – Multi-State and National Earthquake Assistance (MSNEA) (42 U.S.C. § 7704(a)(2)(B), (b)(2)(A)(i))**

Purpose: The National Earthquake Hazards Reduction Program (NEHRP) Multi-State and National Earthquake Assistance (MSNEA) grant program makes funds available to nonprofit organizations and institutions of higher education that possess the critical skills necessary to develop and implement regional (multi-state) and/or national earthquake risk mitigation activities.

Award Criteria: Discretionary. The program's authorizing statutes do not prescribe specific criteria for recipients. FEMA awards competitive grants to nonprofit organizations and institutions of higher education that possess the critical skills necessary to develop and implement regional (multi-state) and/or national earthquake risk mitigation activities, on behalf of states and territories participating in the FEMA NEHRP State Assistance program.

**27. National Earthquake Hazards Reduction Program – Individual State Earthquake Assistance (ISEA) (42 U.S.C. § 7704(b)(2)(A)(ix) and 42 U.S.C. § 7704(b) (2)(B))**

Purpose: FEMA awards non-competitive grants to eligible states and territories with high to very high seismic risks to fund one or more of the following allowable activities. The purpose is to support the establishment of earthquake hazards reduction programming and the implementation of earthquake safety, mitigation, and resilience activities at the state and local level.

Award Criteria: Statutory and regulatory eligibility criteria. Eligibility is limited to states and territories that have been determined to have a high or very high risk of earthquakes. Eligibility is further limited to those states and territories who can provide the statutory 25% non-federal cost share.

**28. National Fire Academy Training Assistance (Section 7 of the Federal Fire prevention and Control Act 15 U.S.C. 2206 (i)(1))**

Purpose: Provides travel stipends (air or mileage) to SLTT fire and EMS personnel who attend resident classes at the National Fire Academy.

Award Criteria: Assistance to individuals reimbursing for part of cost to attend trainings in Emmitsburg, MD

**29. National Incident Management System (NIMS) / Emergency Management Assistance Compact Program (EMAC) Program (6 U.S.C. § 761)**

Purpose: To assist the administrator of the Emergency Management Assistance Compact (EMAC) to administer EMAC operations, to implement NIMS, and to continue coordination with FEMA and state, local, and tribal governments.

Award Criteria: Eligibility limited to administration of the Emergency Management Assistance Compact (EMAC).

**30. National Urban Search and Rescue (US&R) Response System (42 U.S.C. § 5165f, 6 U.S.C. § 722)**

Purpose: The purpose of these Readiness Cooperative Agreements is to support the continued development and maintenance of a national urban search and rescue capability among the 28 task forces within the National Urban Search and Rescue Response System.

Award Criteria: Statutory and regulatory eligibility criteria. Only the 28 sponsoring agencies currently designated by FEMA as members of the National Urban Search and Rescue Response System are eligible for readiness and response cooperative agreements.

**31. Next Generation Warning System (Annual DHS Appropriations Acts)**

Purpose: Enables public television broadcasters to upgrade to the Advanced Television Systems Committee broadcast standard (ATSC 3.0) that enables public projects that improve the ability of remote rural areas to receive alerts and warnings.

Award Criteria: The Corporation for Public Broadcasting is the only awardee of the grant. Per the FY24 NOFO, the awardee will then manage a competitive process to solicit sub-grant applications from eligible subrecipients to use these funds in accordance with the requirements and priorities set forth in the NOFO.

### **32. Pre-Disaster Mitigation (42 U.S.C. § 5133)**

Purpose: Makes federal funds available to state, local, tribal, and territorial governments to plan for and implement sustainable cost-effective measures designed to reduce the risk to individuals and property from future natural hazards, while also reducing reliance on federal funding from future disasters.

Award Criteria: The FY 2024 PDM Grant Program provided funding to projects identified in the 2024 DHS Appropriations Act's Joint Explanatory Statement (JES) in the table starting on page 59 entitled "Homeland Security Community Project Funding/Congressionally Directed Spending."

### **33. Safeguarding Tomorrow Through Ongoing Risk Mitigation Loan Fund Program (42 U.S.C. § 5135)**

Purpose: Provides capitalization grants to states, eligible federally recognized tribal governments, territories and the District of Columbia to establish revolving loan funds that provide hazard mitigation assistance for local governments to reduce risks from natural hazards and disasters.

Award Criteria: Awards are based on eligibility criteria that are set by statute with funding allocations based on a statutory formula.

### **34. Staffing for Adequate Fire and Emergency Response (15 U.S.C. § 2229a)**

Purpose: Financial assistance for increasing the number of firefighters to help communities meet industry standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards.

Award Criteria: Competitive award program with statutorily mandated minimum application criteria and peer review.

### **35. State and Local Cybersecurity Grant Program (6 U.S.C. § 665g)**

Purpose: To assist state, local, and territorial governments with managing and reducing systemic cyber risk.

Award Criteria: Mandatory, allocations to each state and territory based on statutory formula with the remainder to the states based on population.

**36. State Fire Training Systems Grants (15 U.S.C. § 2206(f))**

Purpose: To assist state fire service systems in providing training programs.

Award Criteria: Discretionary, no statutory award criteria.

**37. Tribal Cybersecurity Grant Program (6 U.S.C. § 665g)**

Purpose: To assist tribal governments with managing and reducing systemic cyber risk.

Award Criteria: Statutory requirement that the Secretary of DHS shall consult with the Secretary of the Interior and tribal governments in determining whether the grant would be competitive or allocated equally among the tribal governments of the federally recognized tribal nations.

**38. Tribal Homeland Security Grant Program (6 U.S.C. § 606)**

Purpose: Financial assistance to tribal governments to build and sustain capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism.

Award Criteria: Competitive award based on statutory criteria.

**39. Intercity Passenger Rail (6 U.S.C. § 1163)**

Purpose: To assist Amtrak in protecting critical surface transportation infrastructure and the traveling public from acts of terrorism and to increase the resilience of the Amtrak rail system.

Award Criteria: Sole source award to Amtrak. No funding is granted to states or local governments.

**Recommended Determination: Pending Review**

**1. Crisis Counseling Program (42 U.S.C. §§ 5121, et seq.)**

Purpose: Assistance to provide professional counseling services or training of disaster workers to survivors of major disasters to relieve mental health problems caused or aggravated by major disasters or their aftermath.

Award Criteria: Statutory and regulatory eligibility criteria.

**2. Disaster Case Management (42 U.S.C. §§ 5121, et seq.)**

Purpose: Case management services to survivors of major disasters to identify and address unmet needs.

Award Criteria: Statutory and regulatory eligibility criteria.

**3. Disaster Legal Services (DLS) (42 U.S.C. §§ 5121, et seq.)**

Purpose: Provides confidential, free legal assistance to survivors who need legal help due to a major disaster, but who do not have the means to secure adequate legal services. For individuals seeking DLS, there is no formal application process. Individuals can access these services by contacting the phone number designated for the specific major disaster, which is established once the program has been authorized. In addition to this phone number, individuals can visit FEMA Disaster Recovery Centers where DLS attorneys may be physically located.

Award Criteria: Statutory and regulatory eligibility criteria.

**4. Public Assistance – Non-Governmental Organizations (42 U.S.C. §§ 5121, et seq.)**

Purpose: Financial Assistance to NGOs that perform essential community services for emergency work to ensure public safety, and for the repair, restoration, reconstruction, or replacement of an eligible facility damaged or destroyed by a major disaster.

Award Criteria: Statutory and regulatory eligibility criteria.

**5. Public Assistance – Non-Congregate Sheltering (42 U.S.C. §§ 5121, et seq.)**

Purpose: Financial Assistance to state, local, tribal and territorial governments for eligible sheltering expenses caused by a disaster.

Award Criteria: Statutory and regulatory eligibility criteria.

**6. Emergency Food and Shelter Program (42 U.S.C. §§ 11331-11346)**

Purpose: To supplement and expand ongoing efforts to provide shelter, food and supportive services for hungry and homeless people across the nation.

Award Criteria: Mandatory, subaward determinations made by external board based on statutory criteria.

**7. Nonprofit Security Grant Program (6 U.S.C. § 609a)**

Purpose: To assist non-profit organizations in target hardening and other physical security enhancements and activities.

Award Criteria: By statute, only nonprofits that are located within a FEMA designated Urban Area for purposes of the Urban Area Security Initiative (UASI) program are eligible to apply for funding. The criteria for competitive award include a risk prioritization that is statutorily required, providing limited discretion to add grant conditions. There is no discernible connection between an award for a nonprofit organization and 8 U.S.C. §§ 1324(a)(1)(A)(ii)-(iv), 1373, and 1644 and the other criteria established in the S1 Memo.

**Recommended Determination: DHS Review**

**1. Emergency Management Performance Grant (6 U.S.C. § 762)**

Purpose: To assist state, local, tribal, and territorial governments “in preparing for all hazards” and all phases of emergency management.

Award Criteria: Mandatory, allocations to each state based on a statutory formula.

**2. State Homeland Security Grant Program (6 U.S.C. §§ 601 – 613)**

Purpose: Assists states and local and tribal governments in building and sustaining capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism.

Award Criteria: Statutory minimum allocation for each state with remaining awarded based on risk calculated using statutory criteria.

**3. Urban Area Security Initiative (6 U.S.C. §§ 601 – 613, DHS Appropriations Acts)**

Purpose: Financial assistance to high-risk urban areas in building and sustaining capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism.

Award Criteria: Awards based on risk calculated using statutorily required criteria. Discretion in determining how many high-risk urban areas shall receive funding through a State, but that discretion is often limited or guided by Congress through the annual appropriations process.

**4. Operation Stonegarden (6 U.S.C. §§ 601 – 613, DHS Appropriations Acts)**

Purpose: Operation Stonegarden funds target expenditure by local governments for the purpose of border protection and border security.

Award Criteria: Discretionary, competitive awards to states with 100% of funds sub-awarded to local law enforcement. The Department adopts the requirement for competition and criteria for award that is provided for in the legislative history of the appropriations act funding the program.

**5. Homeland Security National Training Program - Continuing Training Grants – Competitive (Annual DHS Appropriations Acts)**

Purpose: To help training partners develop and deliver training to prepare whole communities to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and natural, man-made, and technological hazards.

Award Criteria: Discretionary, no statutory award criteria. Per the FY24 NOFO, the Joint Explanatory Statement accompanying the FY 2024 DHS Appropriations Act (Pub. L. No.

118-47) directs Continuing Training Grants to be competitively awarded for FEMA-certified rural and tribal training.

**6. Port Security Grant Program (46 U.S.C. § 70107)**

Purpose: Assistance to port authorities, facility operators, and state and local governments for maritime transportation infrastructure security.

Award Criteria: Statute requires that funds be allocated based on risk, but otherwise discretionary.

**7. Presidential Residence Protection Assistance Program (Annual DHS Appropriations Acts)**

Purpose: Provides funds to reimburse state and local enforcement agencies (LEAs) and emergency management agencies (EMAs) for extraordinary law enforcement or other emergency personnel costs incurred while protecting any non-governmental residence of the President that is designated or identified to be secured by the U.S. Secret Service.

**8. Regional Catastrophic Preparedness Grant Program. (Annual DHS Appropriations Acts)**

Purpose: Supports the building of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation by providing resources to close known capability gaps in Housing and Logistics and Supply Chain Management, encouraging innovative regional solutions to issues related to catastrophic incidents, and building on existing regional efforts.

Award Criteria: Discretionary program with no statutory award criteria. This program is administered through a competitive selection process.

**9. Targeted Violence and Terrorism Prevention (6 U.S.C. § 112 (b)(2); Annual DHS Appropriations Acts)**

Purpose: To help prepare for, prevent and respond to emergent threats from violent extremism through planning, developing, implementing, or expanding educational outreach, community engagement, social service programs, training and exercises.

Award Criteria: Discretionary program with no statutory award criteria. This program is administered through a competitive selection process.

**10. Transit Security Grant Program (6 U.S.C. § 1135)**

Purpose: The purpose of the grant is to build and sustain transit agency security capabilities that protect national security.

Award Criteria: Discretionary, competitive awards based on statutory criteria that require prioritization of funding based on risk.

**Recommended Determination: DHS Review for Termination**

**1. Case Management Pilot Program (Annual DHS Appropriation Acts)**

Purpose: Makes funds available to local governments and/or nonprofits to provide voluntary case management and other services to aliens in immigration removal proceedings.

Award Criteria: Discretionary; the CMPP National Board makes funds available to local governments and/or nonprofits (subrecipients) to provide case management and culturally, trauma-informed, and linguistically responsive services to eligible noncitizens who affirmatively volunteer to participate in the program.

**2. Emergency Food and Shelter Program – Humanitarian (42 U.S.C. §§ 11331-11346)**

Purpose: To provide shelter and other services to families and individuals encountered by the Department of Homeland Security.

Award Criteria: Mandatory, subaward determinations made by external board based on statutory criteria.

**3. Shelter and Services Program. (Annual DHS Appropriations Acts)**

Purpose: To provide funds to non-federal entities for sheltering and related activities to aliens following their release from DHS. The intent is to support Customs and Border Protection in the safe, orderly, and humane release of aliens from short-term holding facilities.

Award Criteria: SSP-Competitive: Competitive grants made available to local governments, federally recognized tribal governments, nonprofit organizations, and states that serve aliens recently released from DHS custody to provide shelter, food, transportation, acute medical care, personal hygiene supplies, and case management services and to increase the non-federal entities capacity to shelter aliens recently released from DHS custody, including renovations and modifications to existing facilities.

SSP-Allocated: Funding in the FY24 NOFO is allocated to eligible applicants listed in a table in the NOFO. The allocations were based on release and destination data received from CBP over the time period of July 1, 2023, to Dec. 31, 2023, along with operational information available to CBP.

# EXHIBIT C

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

The Fiscal Year (FY) 2025 Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2025 and flow down to subrecipients unless a term or condition specifically indicates otherwise. For federal continuation awards made in subsequent FYs, the FY 2025 DHS Standard Terms and Conditions apply unless otherwise specified in the terms and conditions of the continuation awards. The United States has the right to seek judicial enforcement of these terms and conditions.

All legislation and digital resources are referenced with no digital links. These FY 2025 DHS Standard Terms and Conditions are maintained on the DHS website at <https://www.dhs.gov/publication/dhs-standard-terms-and-conditions>.

### **A. Assurance, Administrative Requirements, Cost Principles, Representations, and Certifications**

- I. Recipients must complete either the Office of Management and Budget (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 (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances, as instructed.

### **B. General Acknowledgements and Assurances Recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located in Title 2, Code of Federal Regulations, Part 200 and adopted by DHS at 2 C.F.R. § 3002.10.**

All recipients and subrecipients must acknowledge and agree to provide DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337.

- I. Recipients must cooperate with any DHS compliance reviews or compliance investigations.
- II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal award and permit access to facilities and personnel.
- III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or DHS Component program guidance. Organization costs related to data and evaluation are allowable. The definition of data and evaluation costs is in 2 C.F.R. § 200.455(c), the full text of which is incorporated by reference.
- V. Recipients must complete DHS Form 3095 within 60 days of receipt of the Notice of Award for the first award under which this term applies. For further instructions and to access the form, please visit: <https://www.dhs.gov/civil-rightsresources-recipients-dhs-financial-assistance>.

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

### C. Standard Terms & Conditions

#### I. Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal award funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal award funds.

#### II. Activities Conducted Abroad

Recipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.

#### III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub. L. No. 94-135 (codified as amended at 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.

#### IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), 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.

#### V. Best Practices for Collection and Use of Personally Identifiable Information

- (1) Recipients who collect personally identifiable information (PII) as part of carrying out the scope of work under a federal award are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect.
- (2) Definition. DHS defines “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. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

#### VI. CHIPS and Science Act of 2022, Public Law 117-167 CHIPS

- (1) Recipients of DHS research and development (R&D) awards must report to the DHS Component research program office any finding or determination of sex based and sexual harassment and/or an administrative or disciplinary action taken against principal investigators or co-investigators to be completed by an authorized organizational representative (AOR) at the recipient institution.
- (2) Notification. An AOR must disclose the following information to agencies within 10 days of the date/the finding is made, or 10 days from when a recipient imposes an administrative action on the reported individual, whichever is sooner. Reports should include:
  - (a) Award number,
  - (b) Name of PI or Co-PI being reported,

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

- (c) Awardee name,
- (d) Awardee address,
- (e) AOR name, title, phone, and email address,
- (f) Indication of the report type:
  - (i) Finding or determination has been made that the reported individual violated awardee policies or codes of conduct, statutes, or regulations related to sexual harassment, sexual assault, or other forms of harassment, including the date that the finding was made.
  - (ii) Imposition of an administrative or disciplinary action by the recipient on the reporting individual related to a finding/determination or an investigation of an alleged violation of recipient policy or codes of conduct, statutes, or regulations, or other forms of harassment.
  - (iii) The date and nature of the administrative/disciplinary action, including a basic explanation or description of the event, which should not disclose personally identifiable information regarding any complaints or individuals involved. Any description provided must be consistent with the *Family Educational Rights in Privacy Act*.

### (3) Definitions.

- (a) An “authorized organizational representative (AOR)” is an administrative official who, on behalf of the proposing institution, is empowered to make certifications and representations and can commit the institution to the conduct of a project that an agency is being asked to support as well as adhere to various agency policies and award requirements.
- (b) “Principal investigators and co-principal investigators” are award personnel supported by a grant, cooperative agreement, or contract under Federal law.
- (c) A “reported individual” refers to recipient personnel who have been reported to a federal agency for potential sexual harassment violations.
- (d) “Sex based harassment” means a form of sex discrimination and includes harassment based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- (e) “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.

### VII. Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964*, Pub. L. No. 88-352 (codified as amended at 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

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

implementing regulations for the Act are found at 6 C.F.R. Part 21. Recipients of a federal award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

### VIII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. No. 90284 (codified as amended at 42 U.S.C. § 3601 *et seq.*) 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, as implemented by the U.S. 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. Part 100, Subpart D.)

### IX. Communication and Cooperation with the Department of Homeland Security and Immigration Officials

- (1) All recipients and other recipients of funds under this award must agree that they will comply with the following requirements related to coordination and cooperation with the Department of Homeland Security and immigration officials:
  - (a) They must comply with the requirements of 8 U.S.C. §§ 1373 and 1644. These statutes prohibit restrictions on information sharing by state and local government entities with DHS regarding the citizenship or immigration status, lawful or unlawful, of any individual. Additionally, 8 U.S.C. § 1373 prohibits any person or agency from prohibiting, or in any way restricting, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status of any individual: 1) sending such information to, or requesting or receiving such information from, Federal immigration officials; 2) maintaining such information; or 3) exchanging such information with any other Federal, State, or local government entity;
  - (b) They must comply with other relevant laws related to immigration, including prohibitions on encouraging or inducing an alien to come to, enter, or reside in the United States in violation of law, 8 U.S.C. § 1324(a)(1)(A)(iv), prohibitions on transporting or moving illegal aliens, 8 U.S.C. § 1324(a)(1)(A)(ii), prohibitions on harboring, concealing, or shielding from detection illegal aliens, 8 U.S.C. § 1324(a)(1)(A)(iii), and any applicable conspiracy, aiding or abetting, or attempt liability regarding these statutes;
  - (c) That they will honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of an alien pursuant to a valid detainer. A jurisdiction does not fail to comply with this requirement merely because it lacks the necessary resources to assist in a particular instance;
  - (d) That they will provide access to detainees, such as when an immigration officer seeks to interview a person who might be a removable alien; and
  - (e) That they will not leak or otherwise publicize the existence of an immigration enforcement operation.

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

- (2) The recipient must certify under penalty of perjury pursuant to 28 U.S.C. § 1746 and using a form that is acceptable to DHS, that it will comply with the requirements of this term. Additionally, the recipient agrees that it will require any subrecipients or contractors to certify in the same manner that they will comply with this term prior to providing them with any funding under this award.
- (3) The recipient agrees that compliance with this term is material to the Government's decision to make or continue with this award and that the Department of Homeland Security may terminate this grant, or take any other allowable enforcement action, if the recipient fails to comply with this term.

### X. Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.

### XI. Debarment and Suspension

Recipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit recipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

### XII. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of the *Drug-Free Workplace Act of 1988* (41 U.S.C. §§ 8101-8106).

### XIII. Duplicative Costs

Recipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing requirements of any other federal award in either the current or a prior budget period. See 2 C.F.R. § 200.403(f). However, recipients may shift costs that are allowable under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal award terms and conditions.

### XIV. Education Amendments of 1972 (*Equal Opportunity in Education Act*) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (codified as amended at 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. Recipients of a federal award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 19.

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

### XV. Energy Policy and Conservation Act

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

### XVI. Equal Treatment of Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries.

Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

### XVII. Anti-Discrimination

Recipients must comply with all applicable Federal anti-discrimination laws material to the government's payment decisions for purposes of 31 U.S.C. § 372(b)(4).

(1) Definitions. As used in this clause –

- (a) DEI means “diversity, equity, and inclusion.”
- (b) DEIA means “diversity, equity, inclusion, and accessibility.”
- (c) Discriminatory equity ideology has the meaning set forth in Section 2(b) of Executive Order 14190 of January 29, 2025.
- (d) Discriminatory prohibited boycott means refusing to deal, cutting commercial relations, or otherwise limiting commercial relations specifically with Israeli companies or with companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of Israel to do business.
- (e) Federal anti-discrimination laws mean Federal civil rights law that protect individual Americans from discrimination on the basis of race, color, sex, religion, and national origin.
- (f) Illegal immigrant means any alien, as defined in 8 U.S.C. § 1101(a)(3), who has no lawful immigration status in the United States.

(2) Grant award certification.

- (a) By accepting the grant award, recipients are certifying that:
  - (i) They do not, and will not during the term of this financial assistance award, operate any programs that advance or promote DEI, DEIA, or discriminatory equity ideology in violation of Federal anti-discrimination laws; and
  - (ii) They do not engage in and will not during the term of this award engage in, a discriminatory prohibited boycott.
  - (iii) They do not, and will not during the term of this award, operate any program that benefits illegal immigrants or incentivizes illegal immigration.

(3) DHS reserves the right to suspend payments in whole or in part and/or terminate financial assistance awards if the Secretary of Homeland Security or her designee determines that the recipient has violated any provision of subsection (2)..

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

- (4) Upon suspension or termination under subsection (3), all funds received by the recipient shall be deemed to be in excess of the amount that the recipient is determined to be entitled to under the Federal award for purposes of 2 C.F.R. § 200.346. As such, all amounts received will constitute a debt to the Federal Government that may be pursued to the maximum extent permitted by law.

XVIII. *False Claims Act and Program Fraud Civil Remedies*

Recipients must comply with the requirements of the *False Claims Act*, 31 U.S.C. §§ 3729- 3733, which prohibit 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.)

XIX. *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.

XX. *Federal Leadership on Reducing Text Messaging While Driving*

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of Executive Order 13513.

XXI. *Fly America Act of 1974*

Recipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: Certificated Air Carriers List | US Department of Transportation, <https://www.transportation.gov/policy/aviation-policy/certificated-aircarriers-list>) 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.

XXII. *Hotel and Motel Fire Safety Act of 1990*

Recipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal award funds complies with the fire prevention and control guidelines of Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, 15 U.S.C. § 2225a.

XXIII. *John S. McCain National Defense Authorization Act of Fiscal Year 2019*

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019*, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. The statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

XXIV. *Limited English Proficiency (Civil Rights Act of 1964, Title VI)*

Recipients must comply with Title VI of the *Civil Rights Act of 1964* (42 U.S.C. § 2000d *et seq.*) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

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-organizationsprovide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

### XXV. Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds provided under a federal 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 related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).

### XXVI. National Environmental Policy Act

Recipients must comply with the requirements of the *National Environmental Policy Act of 1969*, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require 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.

### XXVII. National Security Presidential Memorandum-33 (NSPM-33) and provisions of the CHIPS and Science Act of 2022, Pub. L. 117-167, Section 10254

(1) Recipient research institutions (“covered institutions”) must comply with the requirements in NSPM-33 and provisions of Pub. L. 117-167, Section 10254 (codified at 42 U.S.C. § 18951) certifying that the institution has established and operates a research security program that includes elements relating to:

- (a) cybersecurity;
- (b) foreign travel security;
- (c) research security training; and
- (d) export control training, as appropriate.

(2) Definition. “Covered institutions” means recipient research institutions receiving federal Research and Development (R&D) science and engineering support “in excess of \$50 million per year.”

### XXVIII. Non-Supplanting Requirement

Recipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.

### XXIX. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

by reference. All recipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the federal award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.

XXX. Patents and Intellectual Property Rights

Recipients are subject to the *Bayh-Dole Act*, 35 U.S.C. § 200 *et seq.* and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.

XXXI. Presidential Executive Orders

Recipients must comply with the requirements of Presidential Executive Orders related to grants (also known as federal assistance and financial assistance), the full text of which are incorporated by reference.

XXXII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the *Solid Waste Disposal Act*, Pub. L. No. 89-272 (1965) (codified as amended by the *Resource Conservation and Recovery Act* at 42 U.S.C. § 6962) and 2 C.F.R. § 200.323. 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.

XXXIII. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. No. 93-112 (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXXIV. Reporting Recipient Integrity and Performance Matters

If the total value of any 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 the federal award, then the recipient must comply with the requirements set forth in the government-wide federal award term and condition for Recipient Integrity and Performance Matters is in 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated by reference.

XXXV. Reporting Subawards and Executive Compensation

For federal awards that total or exceed \$30,000, recipients are required to comply with the requirements set forth in the government-wide federal award term and condition on Reporting Subawards and Executive Compensation set forth at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated by reference.

XXXVI. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

(1) Recipients of a federal award from a financial assistance program that provides funding for infrastructure are hereby notified that none of the funds provided under this federal award may be used for a project for infrastructure unless:

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

- (a) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
  - (b) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
  - (c) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.
- (2) The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

(3) *Waivers*

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

- (a) When the Federal agency has determined that one of the following exceptions applies, the federal awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
  - (i) applying the domestic content procurement preference would be inconsistent with the public interest;
  - (ii) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
  - (iii) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.
- (b) A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.
- (c) There may be instances where a federal award qualifies, in whole or in part, for an existing waiver described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

- (4) *Definitions.* The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.

XXXVII. SAFECOM

Recipients receiving federal 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. The SAFECOM Guidance is updated annually and can be found at Funding and Sustainment | CISA.

XXXVIII. Subrecipient Monitoring and Management

Pass-through entities must comply with the requirements for subrecipient monitoring and management as set forth in 2 C.F.R. §§ 200.331-333.

XXXIX. System for Award Management and Unique Entity Identifier Requirements

Recipients are required to comply with the requirements set forth in the governmentwide federal award term and condition regarding the System for Award Management and Unique Entity Identifier Requirements in 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated reference.

XL. Termination of a Federal Award

- (1) By DHS. DHS may terminate a federal award, in whole or in part, for the following reasons:

- (a) If the recipient fails to comply with the terms and conditions of the federal award;
- (b) With the consent of the recipient, in which case the parties must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated; or
- (c) Pursuant to the terms and conditions of the federal award, including, to the extent authorized by law, if the federal award no longer effectuates the program goals or agency priorities.

- (3) By the Recipient. The recipient may terminate the federal award, in whole or in part, by sending written notification to DHS stating the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if DHS determines that the remaining portion of the federal award will not accomplish the purposes for which the federal award was made, DHS may terminate the federal award in its entirety.

- (4) Notice. Either party will provide written notice of intent to terminate for any reason to the other party no less than 30 calendar days prior to the effective date of the termination.

- (5) Compliance with Closeout Requirements for Terminated Awards. The recipient must continue to comply with closeout requirements in 2 C.F.R. §§ 200.344-200.345 after an award is terminated.

## FY 2025 DHS STANDARD TERMS AND CONDITIONS

XLI. Terrorist Financing

Recipients must comply with Executive Order 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the Executive Order and laws.

XLII. Trafficking Victims Protection Act of 2000(TVPA)

Recipients must comply with the requirements of the government-wide federal award term and condition which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 106 (codified as amended at 22 U.S.C. § 7104). The federal award term and condition is in 2 C.F.R. § 175.105, the full text of which is incorporated by reference.

XLIII. *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. 107-56*

Recipients must comply with the requirements of Pub. L. 107-56, Section 817 of the USA PATRIOT Act, which amends 18 U.S.C. §§ 175–175c.

XLIV. Use of DHS Seal, Logo and Flags

Recipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

XLV. *Whistleblower Protection Act*

Recipients must comply with the statutory requirements for whistleblower protections in 10 U.S.C § 470141 U.S.C. § 4712.

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

State of Illinois, et al.

(b) County of Residence of First Listed Plaintiff SANGAMON  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rhode Island Office of Attorney General  
150 South Main Street, Providence, RI 02903

**DEFENDANTS**

Kristi Noem, et al.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

United States Department of Justice  
950 Pennsylvania Avenue NW, Washington, DC 20530

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

5 U.S.C. §§ 702 &amp; 706, 28 U.S.C. § 2201

Brief description of cause:

Challenge to agency action for APA and Constitutional violations

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 13, 2025

/s/ Keith Hoffmann

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.