



Two items that were not mentioned in the Key Changes doc relate to Contracted Security Personnel and Restricted Equipment:

Restricted Equipment: “Prohibitions on Expending Grant or Cooperative Agreement Funds for Certain Telecommunications and Video Surveillance Services or Equipment” (i.e., Made in China)

Q: This potentially could create confusions/problems for sub-applicants. I do not believe that this is specifically mentioned in the NOFO or referenced within the AEL. Is there a way to amplify this so SAA and sub-applicants are fully aware and know how to work around this restriction?

Prohibitions on Expending Grant or Cooperative Agreement Funds for Certain Telecommunications and Video Surveillance Services or Equipment

Effective August 13, 2020, DHS/FEMA recipients and subrecipients may not use grant funds under the programs covered by this Manual and provided in FY 2020 or previous years to:

1. Procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract to procure or obtain any equipment, system, or service that uses “covered telecommunications equipment or services” as a substantial
2. Enter into contracts or extend or renew contracts with entities that use “covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system.

This prohibition regarding certain telecommunications and video surveillance services or equipment is mandated by section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018).

** Recipients and subrecipients may use DHS/FEMA grant funding to procure replacement equipment and services impacted by this prohibition, provided the costs are otherwise consistent with the requirements of this Manual, applicable appendix to this Manual, and applicable NOFO. DHS/FEMA will publish additional guidance in a subsequent Information Bulletin or similar notice.

Per section 889(f)(2)-(3) of the FY 2019 NDAA, covered telecommunications equipment or services means:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);

2. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation,

Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

3. Telecommunications or video surveillance services provided by such entities or using such equipment; or

4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China

So in sum, as part of the due diligence you must ascertain the company and or manufacture of any covered equipment/technology. If it falls into those listed above, need to find another source.

Also note that "replacement" of existing equipment that is prohibited is allowed. AEL updates and additional IB will be issued to provide clarity before awards are made.

Contracted Security Personnel: This year's NOFO is more stringent regarding this requirement, as highlighted: "The recipient must be able to sustain this capability in future years without NSGP funding, and a sustainment plan will be required as part of the

closeout package for any award funding this capability." Q: There is no additional guidance regarding what constitutes a sustainment plan or what is a closeout package. Can FEMA provide additional guidance on what these additional requirements entail?

The requirement for the "sustainment plan" is to clearly articulate that hiring of contract security should NOT be predicated on the premise that grant funding will be the primary long term source of funding for sustaining contract security.

As NSGP is a highly competitive program, there is no year over year guarantee that funds will be available to support. So we want to be clear that if this is a critical need, this needs to be a longer term solution funded by the nonprofit after the grant is expended. The sustainment plan, in the grant close out package, gets planners to think beyond grants and to budget accordingly for the long term. The plan should clearly articulated how contract security can be maintained/sustained in future years given no guarantee for funding and contract security is only a temporary fix vs alternative projects which could have a longer term security impact. The key message, is, if contract security is a critical priority based on the vulnerability assessment, grants should be used (to establish and refine the capability) but should be planned supported (base on the sustainment plan) to non-grant funding for the long term.

10. Performance Metrics (page 4 of the NSGP NOFO)

Performance metrics for this program are as follows:

- Percentage of funding spent on contract security;
- Percentage of funding spent on target hardening; and
- Percentage of funding spent on training and awareness campaigns.

Contracted Security (page 14 of the NSGP NOFO)

Contracted security personnel are allowed under this program only as described in this NOFO.

The recipient must be able to sustain this capability in future years without NSGP funding, and a sustainment plan will be required as part of the closeout package for any award funding this capability.

NSGP funds also may not be used to purchase equipment for contracted security.