



FEMA Policy: Prohibited or Controlled Equipment Under FEMA Awards

FEMA Policy 207-22-0002

BACKGROUND

On May 25, 2022, President Joseph R. Biden issued [Executive Order \(EO\) 14074, Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#). Section 12(a) of EO 14074 directs the Department of Homeland Security (DHS) to review its grant programs and, consistent with applicable law, to prohibit the use of grant funding to purchase certain types of military equipment by state, local, tribal, and territorial (SLTT) law enforcement agencies (LEAs). EO 14074 directs, consistent with applicable law, the prohibition of certain types of equipment outright (prohibited equipment), whereas other types of equipment may be controlled or LEAs are required to submit certifications prior to purchase.¹ Additionally, section 12(b) of EO 14074 directs DHS, as appropriate and consistent with applicable law, to comply with and implement the recommendations stemming from the prior [EO 13688, Federal Support for Local Law Enforcement Equipment and Acquisition](#),² which established both a prohibited equipment list and a controlled equipment list as well as other requirements.³ This Federal Emergency Management Agency (FEMA) policy applies to all FEMA grant programs.

SUPERSESSON

For all awards issued on or after January 1, 2023, this policy supersedes FEMA Informational Bulletin (IB) No. 426, Guidance to Recipients and Subrecipients of FEMA Preparedness Grants Regarding Implementation of Executive Order 13809 Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources, issued November 1, 2017. This policy also supersedes FEMA IB No. 419, Purchase of Energetic Materials Using Homeland Security Grant Program (HSGP) Funding. Finally, this policy supersedes the guidance for use of Operation Stonegarden funds for small unmanned aircraft systems in IB No. 438, Guidance For Use of Operation Stonegarden Funds for Small Unmanned Aircraft Systems and Certain Costs Related to Transportation and Medical Care.

¹ Section 12(c) of EO 14074 also directs DHS to prohibit or restrict the transfer to SLTT LEAs of these same types of equipment, consistent with applicable law. However, FEMA does not transfer any of the listed equipment to SLTT LEAs or other non-federal entities.

² Executive Order 13688, Federal Support for Local Law Enforcement Equipment and Acquisition (Jan. 16, 2015). Section 12(b) specifically references recommendations by the Law Enforcement Equipment Working Group (LEEWG) in its original May 2015 report and October 2016 updated report, which contained five groups of recommendations. FEMA previously issued Information Bulletin (IB) Nos. [407](#) and [407a](#) to implement EO 13688 regarding FEMA's preparedness grants. Specifically, IB No. 407 was issued following the LEEWG May 2015 report, and IB No. 407a was issued following the LEEWG October 2016 report.

³ EO 13688 was rescinded by Executive Order 13809, Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources (Aug. 28, 2017). FEMA issued [IB No. 426](#) to implement EO 13809, superseding previously issued IB Nos. 407 and 407a.



PURPOSE

The prohibitions and requirements in sections 12(a) and (b) of EO 14074 legally apply to FEMA's grant programs. Therefore, the purpose of this policy is to implement sections 12(a) and (b) of EO 14074 by prohibiting recipients and subrecipients from purchasing certain types of equipment, setting forth requirements and procedures by which recipients and subrecipients may potentially purchase controlled equipment under FEMA federal financial assistance awards (FEMA awards), and by imposing various other requirements stemming from the recommendations issued under EO 13688.

PRINCIPLES

The following principles underpin this policy:

- A. Although EOs 14074 and 13688 speak directly to SLTT LEAs, through this policy, FEMA will apply the same requirements and conditions to all recipient and subrecipients in implementing prohibited and controlled equipment requirements regardless of their designation as, or affiliation with an LEA. This ensures a consistent approach toward prohibited and controlled equipment expenditures and use by all FEMA recipients and subrecipients.
- B. FEMA will not permit recipients and subrecipients to purchase items that are prohibited by section 12(a) of EO 14074. FEMA will ensure that any items listed in section 12(a) are only purchased if they fall under an exception to a general prohibition, and if required certifications and purchase procedures are met.
- C. Grant recipients and subrecipients may not modify equipment acquired using federal resources in a manner that would cause it to be considered prohibited equipment. In addition, grant recipients and subrecipients may not modify equipment acquired using federal resources that would cause it to be considered controlled equipment, absent specific written approval from FEMA and adherence to all relevant requirements.
- D. FEMA does not transfer prohibited or controlled items to SLTT LEAs or other non-Federal entities.
- E. FEMA will support safe and effective policing through agency grantmaking.

REQUIREMENTS

A. APPLICABILITY

Outcome: To establish the prohibited and controlled equipment requirements for FEMA grant programs.

This policy applies to all recipients and subrecipients of FEMA awards or declarations issued on or after January 1, 2023, except for Public Assistance (PA) recipients and subrecipients when PA funding is used to replace items that the applicant already owned, that were damaged by a disaster, and are otherwise eligible under PA.⁴

⁴ The equipment defined in this policy may not be prohibited under the Public Assistance (PA) program if these items are purchased by a recipient or subrecipient to replace items that it owns and that have been damaged by a disaster, in accordance with 44 CFR 206.226(h). Recipients and subrecipients should refer to Public Assistance policies and guidance for information regarding the eligibility of specific items.



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Any reference to “recipients and subrecipients” in this policy also means that the prohibitions or requirements apply to their contractors and subcontractors when using funds from FEMA awards or declarations.

This policy applies to FEMA-funded equipment.

B. PROHIBITED EQUIPMENT

Outcome: To identify items that are prohibited from purchase under FEMA awards.

This section includes exceptions for otherwise prohibited items that are allowable under certain circumstances, as well as procedures for obtaining FEMA approval for those items. Recipients and subrecipients should refer to applicable program guidance or contact appropriate FEMA program staff to determine whether a particular type of equipment is allowable under a specific grant program.

1. Consistent with section 12(a) of EO 14074, under this policy the following items are prohibited for purchase by FEMA recipients and subrecipients under FEMA awards:⁵
 - a. Firearms of .50 or greater caliber.
 - b. Ammunition of .50 or greater caliber.
 - c. Firearm silencers, as defined in 18 U.S.C. § 921(a)(24).
 - d. Bayonets.
 - e. Grenade launchers.
 - f. Grenades (including stun and flash-bangs).
 - g. Explosives
 - i. Exception: Explosives and percussion actuated non-electric disruptors used for specialized teams such as Federal Bureau of Investigation (FBI)-accredited Bomb Squads, Tactical Entry Teams, Special Weapons and Tactics (SWAT) Teams, and explosive detection canine training. See sections D and G for information on the procedures for excepted explosives.
 - h. Weaponized aircraft, vessels, and vehicles of any kind.⁶
 - i. Any vehicles without a commercial application, including all tracked and armored vehicles.
 - i. This prohibition includes, but is not limited to:
 1. Armored Vehicles, Wheeled: Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier. These vehicles are sometimes used by law enforcement personnel involved in dangerous operating conditions, including active shooter or similar high-threat situations. These vehicles often have weapon-firing ports.

⁵ The equipment defined in this policy may not be prohibited under the Public Assistance (PA) program if these items are purchased by a recipient or subrecipient to replace items that it owns and that have been damaged by a disaster. Public Assistance applicants may not use excess Public Assistance funding provided under Stafford Act Sections 422 or 428 to purchase the prohibited items covered in this policy.

⁶ [EO 13688 Law Enforcement Permanent Working Group, Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition \(May 2015\)](#).



2. Tactical Vehicles, Wheeled: A vehicle purpose-built to operate on- and off-road in support of military operations, such as a HMMWV ("Humvee"), 2.5-ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached. These vehicles are sometimes used by law enforcement in rough terrain or inclement weather for search and rescue operations, as well as other law enforcement functions.
- ii. Exception:
 1. Non-Commercial Vehicles used exclusively for one or more of the following activities are not prohibited:
 - a. disaster-related emergencies;
 - b. active shooter scenarios;
 - c. hostage or other search and rescue operations; or
 - d. anti-terrorism preparedness, protection, prevention, response, recovery, or relief.See section D for information on the procedures for excepted non-commercial vehicles.
 - j. Weaponized drones and weapons systems covered by [Department of Defense Directive 3000.09 of November 21, 2012, as amended \(Autonomy in Weapon Systems\)](#).
 - k. Any non-commercial aircraft, including those that are combat-configured or combat-coded or have no established commercial flight application.
 - i. Exception:
 1. Non-Commercial Aircraft with an application for one or more of the following activities are not prohibited:
 - a. disaster-related emergencies;
 - b. active shooter scenarios;
 - c. hostage or other search and rescue operations; or
 - d. anti-terrorism preparedness, protection, prevention, or response, recovery, or relief.See sections D and F for information on the procedures for excepted non-commercial aircraft.
 - l. Long-range acoustic devices that do not have a commercial application.
 - m. Camouflage uniforms, including camouflage-patterned uniforms, are generally prohibited.⁷

C. CONTROLLED EQUIPMENT

Outcome: To identify certain items that may only be purchased with FEMA awards if additional certifications and controls are imposed on their acquisition or use.

Even if equipment is listed as controlled equipment and is not outright prohibited, that does not automatically make it allowable under a particular FEMA program. Recipients and subrecipients should refer to applicable program guidance or contact applicable FEMA program staff to determine if a particular type of equipment is allowable under that program.

⁷ [EO 13688 Law Enforcement Permanent Working Group, Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition \(May 2015\)](#)



1. Consistent with section 12 of EO 14074 and past implementation of the recommendations from EO 13688, the following items are controlled equipment:
 - a. Manned Aircraft, Fixed Wing: Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift. These are only permitted if they meet the exceptions stated for aircraft in section 12(a) of EO 14074 and section B of this policy. Please see program-specific policy or guidance regarding allowability under a particular program. See sections D and F for prior approval procedures related to this type of equipment.
 - b. Manned Aircraft, Rotary Wing: Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift. These are only permitted if they meet the exceptions stated for aircraft in section 12(a) of EO 14074 and section B of this policy. Please see program-specific policy or guidance regarding allowability under a particular program. See sections D and F for prior approval procedures related to this type of equipment.
 - c. Unmanned Aerial Vehicles (UAV), also referred to as Unmanned Aircraft Systems (UAS), and small Unmanned Aerial Systems (sUAS): A remotely piloted, powered aircraft without a crew aboard.⁸ These are only permitted if they meet the exceptions stated for aircraft in section 12(a) of EO 14074 and section B of this policy. Please see program-specific policy or guidance regarding allowability under a particular program. See section F for prior approval procedures related to this type of equipment.
 - d. Specialized Firearms and Ammunition under .50 caliber (excludes firearms and ammunition designated for regularly-assigned duties) and Less Lethal Launchers: Weapons and corresponding ammunition for specialized operations or assignments. This includes launchers specifically designated and built to launch less lethal projectiles. This excludes weapons, such as service-issued handguns, rifles, or shotguns, that are issued or approved by the agency to be used by all sworn officers/deputies during the course of regularly assigned duties.⁹ See section D for the procedures related to the purchase of this type of equipment.
 - e. Breaching Apparatus: Tools designed to provide law enforcement rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (e.g., a battering ram connected to a vehicle or a propellant) or ballistic (e.g., slugs). This category does not include dual-purpose tools such as a sledgehammer or bolt cutter. See section D for the procedures related to the purchase of this type of equipment.
 - i. Exception: FEMA does not control the purchase of battering rams by fire departments.
 - f. Riot/Crowd Control Shields:¹⁰ Shields intended to protect wielders from their head to their knees in crowd control situations. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. See section D for the procedures related to the purchase of this type of equipment.

⁸ Recipients and subrecipients should refer to the annual Notices of Funding Opportunity or other program policies or guidance or contact the applicable FEMA program analyst for information regarding the allowability of specific equipment categories.

⁹ Equipment defined under this category is not an allowable expense under any FEMA preparedness grant program.

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- g. Riot/Crowd Control Batons:¹¹ Non-expandable batons of greater length than service-issued types that are intended to protect its wielder during crowd control situations by providing distance from assailants. This includes all batons with advanced features such as tear gas discharge, electronic, or “stun” capabilities. See section D for the procedures related to the purchase of this type of equipment.

D. PROCEDURES FOR PURCHASE OF ALL EXCEPTED OR CONTROLLED EQUIPMENT

Outcome: FEMA requires the procedures and certifications in this section, in addition to any other equipment specific procedures included in this policy, for recipients and subrecipients to use FEMA grant funds to purchase all excepted or controlled items.

1. To purchase prohibited items with exceptions or controlled equipment, the recipient or subrecipient must:
 - a. Submit to FEMA a description of how they expect to use the property;
 - b. Demonstrate that the property will be tracked in an asset management system;
 - c. Demonstrate a nexus to funding program priorities;
 - d. Provide evidence of approval or concurrence by the jurisdiction’s governing body for the acquisition of the prohibited item with an exception or controlled equipment;
 - e. Certify they have adopted or will adopt the required policies and protocols;
 - f. Certify they will adhere to the after-action report requirement;
 - g. Certify they will adhere to the records keeping requirements;
 - h. Indicate whether the equipment will be used regionally;
 - i. Disclose civil rights compliance information;
 - j. Certify they will meet all training requirements in section E;
 - k. Certify they will abide by all applicable federal, state, local, and tribal laws, regulations, and programmatic terms and conditions; and
 - l. Determine the specific certification or approval that may be required to purchase excepted or controlled equipment under a particular program.

2. Governing Body Approval
 - a. The recipient or subrecipient must provide evidence of approval or concurrence by the jurisdiction’s governing body (e.g., City Council, County Council, Mayor) for the acquisition of the requested excepted or controlled equipment. Evidence of the governing body’s approval or concurrence should be explicit. However, if the recipient or subrecipient can provide evidence that the governing body was given a reasonable opportunity to review the excepted or controlled equipment acquisition request but failed to affirmatively approve or disapprove of the request, such silence or inaction will constitute evidence of approval.
 - i. For LEAs where the chief executive is popularly elected (e.g., Sheriffs), the LEA must provide official written notice to—but are not required to obtain approval from—their civilian governing body at least 30 days in advance of any application to acquire excepted or controlled equipment from the Federal Government.
 - ii. For Institutions of Higher Education (IHEs), explicit approval by the governing body of the IHE (e.g., Board of Trustees or Visitors, State Board of Regents) for the acquisition of the excepted or controlled equipment is required, the documentation

¹¹ Equipment defined under this category is not an allowable expense under any FEMA preparedness grant program.



of which must be included in the application. Silence (such as inclusion on consent calendar) or inaction by the governing body does not constitute approval.

3. Policy and Protocol Requirement

- a. The recipient and subrecipient must have written policies and protocols that specifically govern the:
 - i. Appropriate use of excepted or controlled equipment:

Recipients and subrecipients should examine scenarios in which excepted or controlled equipment will likely be deployed, the decision-making processes that will determine whether controlled equipment is used, and the potential that both use and misuse of excepted or controlled equipment could create fear and distrust in the community. Protocols should consider whether measures can be taken to mitigate that effect (e.g., keep armored vehicles at a staging area until needed) and any alternatives to the use of such equipment and tactics to minimize negative effects on the community while preserving officer safety.
 - ii. Supervision of use of excepted or controlled equipment:

The protocols must specify appropriate supervision of personnel operating or utilizing excepted or controlled equipment. Supervision must be tailored to the type of equipment being used and the nature of the engagement or operation during which the equipment will be used. Policies must describe when a supervisor of appropriate authority is required to be present and actively overseeing the equipment's use in the field.
 - iii. Effectiveness evaluation:

The protocols must articulate that the recipient or subrecipient will regularly monitor and evaluate the effectiveness and value of excepted or controlled equipment to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. Requesting organizations should review after-action reports routinely and analyze any data on, for example, how often excepted or controlled equipment is used or whether excepted or controlled equipment is used more frequently in certain law enforcement operations or in particular locations or neighborhoods.
 - iv. Auditing and accountability:

There must be strong auditing and accountability provisions in the protocols that state that the recipient or subrecipient's personnel will agree to comply with and be held accountable if they do not adhere to agency, state, local, tribal, territorial, and federal policies associated with the use of excepted or controlled equipment.
 - v. Transparency and notice consideration:

The protocols must articulate that the recipient or subrecipient will engage the community regarding acquisition of excepted or controlled equipment, policies governing its use, and review of significant incidents, with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures.



- b. LEA recipients or subrecipients requesting excepted or controlled equipment must have written policies and protocols on (1) Community Policing; (2) Constitutional Policing; and (3) Community Input and Impact Considerations.^{12 13}
 - i. For IHEs, Community Input and Impact Considerations must include certification that campus LEA policies identify a mechanism that LEAs will engage members of the school community, including students and faculty. This includes how IHEs will provide members of the school community with information about excepted or controlled equipment, explanations from the IHE concerning the need for such equipment, as well as potential uses and benefits to the agency and the community. Information gathered from the community should be used to review trends related to the deployment of excepted or controlled equipment.
 - ii. Record-Keeping Requirement: Upon request from FEMA, LEAs must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards and any related policies and protocols.
4. After-Action Report (AAR) Requirement Following a Significant Event
- a. The recipient and subrecipient must collect and retain Required Information (section 4.b) when a significant incident or event requires, or results in, the use of any excepted or controlled equipment purchased with FEMA grant funds. This requirement applies to equipment purchased with funding from FEMA grant awards made on or after January 1, 2023.
 - i. A significant incident or event includes:

¹² LEAs include contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant funded excepted or controlled equipment. Community policing is the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs and, in turn, enhances LEAs ability to investigate crimes and keep the peace. Constitutional Policing protocols emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies must include protocols on First Amendment, Fourth Amendment, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with federal and state civil rights laws. Community Input and Impact protocols must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs' actions, role in, and relationships with the community. Law enforcement exists to protect and serve the community, so the community should be aware of and have a say in how they are policed. LEAs should make particular efforts to seek the input of communities where excepted or controlled equipment is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs' regular interactions with the public through community forums, town halls, or meetings with the Chief or community outreach divisions.

¹³ Community Policing is the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs and, in turn, enhances LEAs ability to investigate crimes and keep the peace. Constitutional Policing protocols emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies must include protocols on First Amendment, Fourth Amendment, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with federal and state civil rights laws. Community Input and Impact protocols must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs' actions, role in, and relationships with the community. Law enforcement exists to protect and serve the community, so the community should be aware of and have a say in how they are policed. LEAs should make particular efforts to seek the input of communities where excepted or controlled equipment is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs' regular interactions with the public through community forums, town halls, or meetings with the Chief or community outreach divisions.



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1. A demonstration or other public exercise of First Amendment rights or any other event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed;
 2. When unlawful or inappropriate police actions are alleged and trigger a federal compliance review, and when FEMA determines that excepted or controlled equipment was used in the law enforcement activity under review; and
 3. Any operation or action that involves (1) a violent encounter among civilians or between civilians and the recipient or subrecipient; and/or (2) a use-of-force that causes death or serious bodily injury.¹⁴
- b. Required Information to be collected and retained for AAR:
- i. Identification of excepted or controlled equipment used (e.g., categories and number of units of excepted or controlled equipment used, make/model/serial number);
 - ii. Description of the significant incident/event involving the excepted or controlled equipment;
 - iii. Identification of personnel who used the equipment and, if possible, a list of those involved in the incident; and
 - iv. Result of excepted or controlled equipment use (e.g., arrests, use-of-force, victim extraction, injuries).
5. Record-Keeping Requirement
- a. Documented Policies and Protocols Records:
The recipient and subrecipient must retain written policies and procedures that govern the:
- i. Appropriate use of excepted or controlled equipment;
 - ii. Supervision of use of excepted or controlled equipment;
 - iii. Effectiveness evaluation;
 - iv. Auditing and accountability; and
 - v. Transparency and notice considerations.
- b. Training Records:
The recipient and subrecipient must retain comprehensive training records, either in the personnel file of the individual who was trained or by the recipient's training division or equivalent entity, for a period of at least three years after training date, and must provide a copy of these records, upon request, to DHS/FEMA.
- c. AAR Records:
The recipient and subrecipient must retain AAR reports with the Required Information (section 4.a.) following any significant incident report for a period of at least three years and must provide a copy of these records, upon request, to FEMA. This information shall also be made available to the community served in accordance with applicable policies and protocols including considerations regarding the disclosure of sensitive information.

¹⁴ Serious bodily injury, as defined by 18 U.S.C. § 1365(h), is the bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.



6. Regional Capability

- a. If the excepted or controlled equipment will provide a regional or multi-jurisdictional capability, all entities in the regional sharing agreement must meet the policy and protocol requirements, training requirements, after-action analysis report requirements, and record keeping requirements. The acquiring recipient or subrecipient is responsible for ensuring that a person/jurisdiction who uses its controlled equipment acquired through federal programs adheres to the recipient or subrecipient's relevant policies or the regional sharing agreement, regardless of whether the user is employed by that entity. Ultimately, the responsibility for the use of excepted or controlled equipment rests with the entity that acquired it through a federal program, including in emergency and exigent circumstances.
- b. Acquisition of excepted or controlled equipment—due to size, cost, scarcity, or other reason—for use in regional sharing arrangements is strongly encouraged.

7. Civil Rights Compliance

- a. Entities requesting excepted or controlled equipment must disclose the following information with their application:
 - i. Any finding by a Federal Court or a Federal Government agency, including an agency's civil rights office or the Civil Rights Division of the U.S. Department of Justice, that the recipient or subrecipient has violated a federal civil rights statute, nondiscrimination provision of any federal program statute, or any other programmatic term or condition related to nondiscrimination during the past three years,
 - ii. Any remedial agreement entered into as a result of a civil rights investigation during the past three years, or
 - iii. Any admissions of liability made regarding violations of federal civil rights law in the entity's policing functions during the past three years. Entities must provide detailed information about the violation(s) and any efforts the entity has taken to cure the violation(s), and/or any information on remedial agreements.
- b. FEMA Office of Equal Rights (FEMA OER) and DHS Office for Civil Rights and Civil Liberties (DHS CRCL) will review the information provided by the entity to evaluate the grant recipient's current compliance with civil rights requirements, and whether the grant recipient has taken steps to remedy civil rights violations such that DHS can be assured that the entity will administer its programs and activities in a nondiscriminatory manner. Information on the review process for disclosures of civil rights violations is detailed in [Information Bulletin 414: Civil Rights Review Process for Controlled Equipment Requests \(Jan. 19, 2017\)](#).

E. TRAINING REQUIREMENT FOR PURCHASING EXCEPTED OR CONTROLLED EQUIPMENT

Outcome: Prior to the use of excepted or controlled equipment, the entity must provide or obtain necessary training regarding appropriate use of excepted or controlled equipment.

Use of grant funds to purchase excepted or controlled equipment is intended to enhance capabilities and proficiencies through training and exercise in a variety of formats.



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1. Technical Proficiency:

All recipient and subrecipient personnel who will use excepted or controlled equipment must be trained properly on, and have achieved technical proficiency in, operating or utilizing the excepted or controlled equipment at issue prior to its use. The excepted or controlled equipment may be used for technical training and certification prior to deployment for official use.

2. Scenario-Based Training:

To the extent possible, trainings related to excepted or controlled equipment should include scenario-based training. Personnel authorizing or directing the use of excepted or controlled equipment should have enhanced scenario-based training to examine, deliberate, and review the circumstances in which excepted or controlled equipment should or should not be used. To the extent possible, the recipient or subrecipient should include scenario-based training that combines constitutional and community policing principles with equipment-specific training.

3. Training on Civil Rights and Civil Liberties:

All recipient and subrecipient personnel who will use, authorize or direct the use of the excepted or controlled equipment are required to have annual, appropriate, and relevant training on the 1st, 4th, and 14th Amendments. Training on how to protect the civil rights and civil liberties of those in the surrounding community where the excepted or controlled equipment will be used is vital to ensuring that the use of excepted or controlled equipment complies with constitutional standards for the protection of civil rights and civil liberties. Training objectives should define and explain relevant concepts and demonstrate the application of such concepts through equipment-based scenarios to show appropriate and proper use of excepted or controlled equipment by both law enforcement and non-law enforcement personnel and the negative effects and consequences of misuse.

4. For LEAs Only:

General Policing Standards (including contracted LEAs or LEAs activated as part of a mutual aid agreement or memorandum of understanding using or operating grant-funded excepted or controlled equipment): All LEA personnel who may use or authorize use of excepted or controlled equipment must be trained annually on LEAs' General Policing Standards including (1) Community Policing, (2) Constitutional Policing, and (3) Community Input and Impact Considerations. For additional information on these General Policing Standards see <https://www.bja.gov/programs/Controlled-Equipment-Standards.pdf>.

For purposes of this requirement, annual training—after an initial comprehensive session—may be accomplished through, for example, an in-service, presentations at roll call, or as part of other training refreshers.



F. PROCEDURES FOR PURCHASE OF AIRCRAFT, INCLUDING UNMANNED AIRCRAFT SYSTEMS (UAS) AND SMALL UNMANNED AIRCRAFT SYSTEMS (sUAS)

Outcome: FEMA requires certain procedures and certifications for recipients and subrecipients to use FEMA grant funds to purchase certain types of aircraft, including unmanned aircraft systems (UAS) and small unmanned aircraft systems (sUAS).

1. Exceptions to Prohibited Aircraft
 - a. Aircraft with an established commercial flight application are not prohibited. Aircraft that have an application for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief are also not prohibited. All aircraft meeting the exception to the prohibition are considered controlled equipment.
 - i. Certification: In order to qualify for an exception, recipients and subrecipients must certify that aircraft has one of the applications stated in the preceding paragraph.
2. Types and Procedures for Controlled Aircraft
 - a. Manned Aircraft with Fixed or Rotary Wings
 - i. Please consult program-specific policy or guidance to determine if this is allowable under a particular program. Purchase of fixed or rotary wing aircraft will require a waiver from FEMA by consulting the appropriate FEMA program staff, providing a detailed justification for obligating funds in this category, and receiving approval to obligate funds.
 - ii. A detailed justification must address the following:
 1. The need for the aircraft and how the requested platform best meets that need as compared to other options;
 2. How the requested aircraft supports the priorities of the grant program funding the purchase;
 3. If applicable identify the types of terrorism incident response and prevention equipment with which the requested aircraft will be outfitted, if purchased using FEMA funds;
 4. How the aircraft will be used operationally, and which response assets will be deployed using the requested aircraft; and
 5. How the aircraft will be utilized on a regular, non-emergency basis.

Note: Licensing, registration fees, insurance, and all ongoing operational expenses are generally not allowable under FEMA grants. Please see program-specific policy or guidance regarding allowability under a particular program.

- b. Unmanned Aerial Vehicles / Unmanned Aircraft Systems (UAS):
 - i. Unmanned Aircraft System (UAS): Unmanned aircraft (an aircraft that is operated without direct human intervention from within or on the aircraft) and associated elements (including communication links and components that control the unmanned aircraft) that are required for the pilot or system operator in command to operate safely and efficiently in the National Airspace System.
 - ii. The purchase of UAS/sUAS is allowed for certain FEMA grant programs. Please consult program-specific policy or guidance to determine if this is allowable under a



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particular program. All requests are reviewed by FEMA, the DHS Privacy Office, and the DHS Office for Civil Rights and Civil Liberties.

- iii. If permitted, a recipient must submit the following:
 1. Recipient Support Letter
The letter must include:
 - i. Grant program and fiscal year or declaration number supporting the UAS/sUAS purchase;
 - ii. Number (quantity) of UAS/sUAS requested;
 - iii. Total dollar amount of grant funding requested for purchase; and
 - iv. Applicable investment or project under the grant supporting the purchase.
 2. Request Justification: The justification must include:
 - i. An explanation of how the purchase supports the priorities of the program funding the purchase and how the UAS/sUAS will be used in non-emergency scenarios.
 - ii. Detailed specifications for each piece of equipment or support component of the UAS/sUAS and the associated dollar amount. All equipment and components are to add up to the total dollar amount requested.
 - iii. Grant program and fiscal year or declaration number supporting the requested purchase.
 - iv. Applicable investment or project under the grant supporting the purchase.
 - v. Make, model, operating weight, and manufacturer's country of origin of the UAS/sUAS intended for purchase.
 - vi. A description of the need for the UAS/sUAS.
 - vii. A list of all tools and accessories that will be equipped on the UAS/sUAS.
 - viii. Describe how the UAS/sUAS will be operationally deployed.
 3. Request Certifications: The recipient (or if applicable, subrecipient), must submit the following certifications:
 - i. A signed certification from the recipient (or if applicable, subrecipient) that all licensing, registration fees, insurance, and operational and maintenance costs associated with the UAS/sUAS will not be paid for with grant funds.
 - ii. Signed certification that the recipient (or if applicable, subrecipient) has reviewed and understands the following:
 1. DHS Cybersecurity and Infrastructure Security Agency (CISA), Unmanned Aircraft Systems (UAS) Fact Sheets.
 2. DHS CISA, Chinese Manufactured Unmanned Aircraft Systems Industry Alert.
 3. DHS CISA, Cybersecurity Best Practices for Operating Commercial Unmanned Aircraft Systems.
 - iii. Signed certification that the recipient (and if applicable, subrecipient) has reviewed FEMA Policy 405-143-1, *Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services* and has verified that the selected vendor/manufacturer of the requested UAS/sUAS is not listed as excluded on the System for Award Management.
 - iv. Signed certification that the recipient (or if applicable, subrecipient) has completed a risk assessment regarding any proposed use of foreign-made UAS/sUAS.



- v. Policies and Procedures: Recipients (or if applicable, subrecipients) requesting to purchase UAS/sUAS must provide copies of the policies and procedures in place to safeguard individuals' privacy, civil rights, and civil liberties of the jurisdiction that will purchase, take title to, or otherwise use the UAS/sUAS equipment per Presidential Memorandum: [Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties, in Domestic Use of Unmanned Aircraft Systems, issued February 15, 2015.](#)

This policy and procedures must contain:

1. Privacy section with provisions addressing the following:
 - i. Authorized purposes;
 - ii. Data collection: Recipients shall only collect information using UAS, or use UAS-collected information, to the extent that such collection or use is consistent with and relevant to an authorized purpose;
 - iii. Dissemination: UAS-collected information that is not maintained in a system of records covered by the Privacy Act shall not be disseminated unless dissemination is required by law, or fulfills an authorized purpose and complies with agency requirements; and
 - iv. Personally identifiable information (PII) retention: Information collected using UAS/sUAS that may contain PII shall not be retained for more than 180 days unless retention of the information is determined to be necessary to an authorized mission, is maintained in a system of records covered by the Privacy Act or is required to be retained for a longer period by any other applicable law or regulation.
2. Civil Rights/Civil Liberties section addressing the following:
 - i. Policies are in place to prohibit the collection, use, retention, or dissemination of data in any manner that would violate the First Amendment or in any manner that would discriminate against persons based upon their ethnicity, race, gender, national origin, religion, sexual orientation, or gender identity, in violation of law;
 - ii. UAS/sUAS activities are performed in a manner consistent with the Constitution and applicable laws, Executive Orders, and other Presidential directives; and
 - iii. Adequate procedures to receive, investigate, and address, as appropriate, privacy, civil rights, and civil liberties complaints.
3. Accountability section providing the following:
 - i. Procedures for audit and oversight of the recipient (or if applicable subrecipient's) UAS/sUAS program;
 - ii. Rules of conduct for personnel involved in the UAS/sUAS program;
 - iii. Supervision of personnel involved in the UAS/sUAS program;
 - iv. Protocols for dealing with misuse and abuse of UAS/sUAS data;
 - v. Data-sharing and records management; and
 - vi. Mutual aid requests.
4. Transparency section addressing the following, while not revealing information that could reasonably be expected to compromise law enforcement or national security:
 - i. Public notice about UAS/sUAS program;



- ii. Public notice about planned operations and
 - iii. Annual public reporting.
5. Finalization: a section or information indicating the UAS/sUAS policy has been finalized by the requesting recipient (or if applicable, subrecipient).

G. PROCEDURES FOR PURCHASE OF EXCEPTED EXPLOSIVES

Outcome: FEMA requires certain procedures for recipients and subrecipients to use FEMA grant funds for the purchase of explosives under the exceptions provision of this policy.

1. Funding may be used to purchase energetic materials to train FBI-accredited bomb squads.
 - a. Only FBI-accredited bomb squads can acquire grant-funded energetic materials under authorized programs. Bomb squads are responsible for the safe storage, inventory, and handling of energetic materials in their possession. Use of energetic materials will be limited to training purposes, as well as use by certified bomb technicians assigned to accredited bomb squads. Allowance for the use of grant funds to purchase energetic materials is intended to enhance bomb squad capabilities and proficiencies through training and practical exercises in simulated training environments.
 - b. Direct recipients of FEMA grants will be required to submit a waiver request to FEMA for approval on behalf of FBI-accredited bomb squads in order to purchase energetic materials. Any change to an investment or project based on a request for energetic materials must receive prior written approval from FEMA.
 - c. Waiver requests must be submitted in writing to the recipient's assigned FEMA program office. If applicable, any requests made by subrecipients must be submitted through the State Administrative Agency. Waiver requests must include the following information:
 - i. Proof of FBI bomb squad accreditation, including a copy of the squad accreditation certificate provided by the FBI.
 - ii. An explanation of the goals and objectives that the request for energetic materials supports.
 - iii. A description of where and how the energetic materials will be stored, including both stationary and mobile magazines. Supporting documentation must show that the storage facilities are in compliance with 27 C.F.R. Part 555 – Commerce in Explosives, Subpart K - Storage, as stated in the National Guidelines for Bomb Technicians, and it must include verification of an inventory process.
 - iv. A description of the locations, under the control of accredited bomb squads, where any training will be conducted. Additional training sites under the control of accredited bomb squads may be reviewed by FEMA subsequent to the initial grant approval.
 - v. Acknowledgement that the recipient understands and will follow all Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) explosives guidelines, including the provision for ATF to audit storage magazines and explosive accountability, as well as the legal requirement to report any theft of explosives.
 - vi. Acknowledgement that requests to use any non-ATF-certified training sites will require Environmental and Historic Preservation review.



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- vii. Acknowledgement that the recipients of the energetic materials agree to follow all applicable federal, state, local, tribal, and territorial laws, rules, and guidelines pertaining to explosives.
 - viii. The approximate date by which the materials will be expended or otherwise destroyed. This date must be within the period of performance of the grant being utilized for procurement.
 - ix. A detailed list of energetic materials and related supplies being requested. Examples of the types of energetic material eligible under this program include, but are not limited to:
 - 1. Sheet explosives, including Pentaerythritol Tetranitrate and Research Department Explosive-based explosives
 - 2. Composition C-4
 - 3. Detonators
 - 4. Boosters
 - 5. Detonation Cord
 - x. Acknowledgment that energetic materials obtained through FEMA grant programs will be inventoried separately from other materials in the possession of the bomb squad, will be used for training purposes only, and will not be transferred to any other entity/department, such as canine or tactical units.
- d. Compliance Verification
- i. FEMA is responsible for implementing these requirements for all FEMA grant programs. FEMA staff will collaborate, as necessary, with the Office of Bombing Prevention within CISA in the processing of waiver requests and they will inform the appropriate FEMA program office of waiver approvals.
 - ii. Compliance with this policy will be verified during FEMA program office desk reviews, site visits, and annual inspections performed by the ATF.

H. ENHANCED CRITERIA FOR CAMPUS LAW ENFORCEMENT AGENCIES OPERATING IN INSTITUTIONS OF HIGHER EDUCATION

Outcome: Recipients and subrecipients who are campus LEAs at IHEs must meet certain additional requirements before their request for excepted or controlled equipment can be approved.

- 1. LEAs and IHEs should put particular emphasis on using prohibited or controlled equipment in a way that does not inhibit the exercise of the First Amendment rights of free speech or assembly, including public demonstrations, which are hallmarks of student life at IHEs.
- 2. Recipients and subrecipients who are campus LEAs at IHEs must follow the requirements from the EO 13688 Law Enforcement Permanent Working Group, Enhanced Criteria for Institutions of Higher Education (IHE) Applicants (Feb. 2016) report at <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/enhancedcriteriaforinstitutionsofhighereducationapplicants.pdf>.

I. COMPLIANCE WITH EXCEPTED AND CONTROLLED EQUIPMENT REQUIREMENTS

Outcome: Recipients and subrecipients that acquire excepted or controlled equipment must comply with applicable laws, regulations, and grant award terms and conditions.



1. Disposal or Transfer of Excepted or Controlled Equipment
 - a. Disposal: Prior to disposing of the excepted or controlled equipment, recipients must request disposition instructions from FEMA consistent with the terms of 2 C.F.R. Part 200 and the award agreement. Recipients must abide by all applicable federal, state, local, tribal, and territorial laws, regulations, and programmatic terms when disposing of excepted or controlled equipment.
 - b. Transfer: Excepted or controlled equipment must remain in the possession of the original FEMA grant recipient and may not be transferred. The use of controlled equipment under a Memorandum of Understanding or other regional sharing agreement as listed under section D.6 above does not constitute a transfer of controlled equipment.
2. Violations of Use of Excepted or Controlled Equipment
 - a. FEMA may take appropriate action under the provisions in 2 C.F.R. Part 200 for violations of any federal statutes, regulations, or the terms and conditions of the award related to excepted or controlled equipment (e.g., failure to adopt required protocols, unauthorized transfers).
 - b. For alleged violations of civil rights law involving the grant-funded excepted or controlled equipment, the matter will be referred for investigation to FEMA OER and DHS CRCL to determine appropriate next steps, which may include but is not limited to an investigation or compliance review. If, after advising the appropriate person or persons of a failure to comply, DHS determines that compliance cannot be secured by voluntary means, DHS may bring about compliance by the termination of the grant award, by refusing to continue to provide future federal funding assistance, or by any other means authorized by law, which may include but are not limited to referral to the Department of Justice for judicial action. More information on the civil rights compliance process is detailed in [Information Bulletin 414: Civil Rights Review Process for Controlled Equipment Requests \(Jan. 19, 2017\)](#).
3. Additional Requirements

All grant recipients that are authorized to utilize federal funding to procure or acquire excepted or controlled equipment must comply with 2 C.F.R. Part 200, the terms and conditions of the award agreement, and any special conditions that are placed on the award by FEMA.

Pamela S. Williams
Assistant Administrator
Grant Programs Directorate

Date



ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Policy 207-22-0002, Prohibited or Controlled Equipment under FEMA Awards, will be reviewed, reissued, revised, or rescinded within four years of the issue date.

AUTHORITIES and REFERENCES

AUTHORITIES

- A. [Executive Order 14074, Executive Order on Advancing effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#) (May 25, 2022)
- B. [Executive Order 13688, Federal Support for Local Law Enforcement Equipment and Acquisition](#) (Jan. 16, 2015)
- C. Presidential Memorandum, Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems (Feb. 2015)
- D. Title VI of the Civil Rights Act of 1964, 42 U.S.C § 2000d et seq
- E. [2 C.F.R. § 200.300\(a\)](#)

REFERENCES

- A. DOD Directive 3000.09 of November 21, 2012, as amended (Autonomy in Weapons Systems)
- B. EO 13688 Law Enforcement Permanent Working Group, Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition (May 2015)
- C. EO 13688 Law Enforcement Permanent Working Group, Enhanced Criteria for Institutions of Higher Education (IHE) Applicants (Feb. 2016)
- D. EO 13688 Law Enforcement Permanent Working Group, Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition: Updated for Fiscal Year 2017 (Oct. 2016)
- E. EO 13688 Law Enforcement Permanent Working Group, Annual Equipment List Review Comparison (Oct. 2016)
- F. FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (May 10, 2022)
- G. FEMA GPD IB No. 426, Guidance to Recipients and Subrecipients of FEMA Preparedness Grants Regarding Implementation of Executive Order 13809 Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources (Nov. 2017)
- H. FEMA GPD IB No. 407a, Use of Grant Funds for Controlled Equipment: Update for Fiscal Year 2017 (Jan. 2017)
- I. FEMA GPD IB No. 407, Use of Grant Funds for Controlled Equipment (Feb. 2016)
- J. FEMA GPD IB No. 419, Purchase of Energetic Materials Using Homeland Security Grant Program (HSGP) Funding (July 2017)
- K. FEMA GPD IB No. 438, Guidance for Use of Operation Stonegarden Funds for Small Unmanned Aircraft Systems and Certain Costs Related to Transportation and Medical Care (Jan. 2019)



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- L. FEMA GPD IB No. 414, Civil Rights Review Process for Controlled Equipment Requests (Jan. 2017)
- M. DHS Cybersecurity and Infrastructure Security Agency (CISA), Unmanned Aircraft Systems (UAS) Fact Sheets
- N. DHS CISA, Chinese Manufactured Unmanned Aircraft Systems Industry Alert
- O. DHS CISA, Cybersecurity Best Practices for Operating Commercial Unmanned Aircraft Systems

DEFINITIONS

Authorized Equipment List a list of approved equipment types allowed under FEMA's preparedness grant programs.

Controlled Equipment List identifies categories of equipment that have significant utility for state, local, tribal, territorial, and private grant recipients.

Entity may refer to a recipient, subrecipient, or both.

Excepted Equipment is equipment on the prohibited equipment list that have an exception to the prohibition of its purchase.

Prohibited Equipment List identifies categories of equipment that recipients are prohibited from acquiring using federally-provided funds or via transfer from federal agencies.

Recipient is an entity, usually but not limited to non-federal entities that receives a federal award directly from a federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

Subrecipient is an entity, usually but not limited to non-federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

MONITORING AND EVALUATION

FEMA will monitor the implementation and compliance of this policy through its regular programmatic monitoring procedures.

QUESTIONS

Questions regarding this policy may be directed to the GPD Policy mailbox at fema-gpd-policy@fema.dhs.gov.