




FEMA

**Grant Programs Directorate Information Bulletin
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MEMORANDUM FOR: All State Administrative Agency Heads
All State Administrative Agency Points of Contact
All State Homeland Security Directors
All State Emergency Management Agency Directors
All Urban Area Security Initiative Points of Contact
All Tribal Nation Points of Contact

FROM: Bridget Bean 
Assistant Administrator
Grant Programs Directorate

SUBJECT: **Clarification on the Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act of 2008 (Public Law 110-412 – the PRICE Act)**

I. Purpose

This Information Bulletin (IB) explains how direct and contract personnel costs are classified under Section 2008 of the *Homeland Security Act of 2002* (Pub. L. No. 107-296) as amended by the *Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act of 2008* (PRICE Act) (Pub. L. No. 110-412). It reissues and supersedes previous Grant Programs Directorate (GPD) IB 421 and IB 421a of the same subject and title. The only substantive change relates to the personnel cap waiver request process for Operation Stonegarden (OPSG) awards starting with Fiscal Year 2019 awards and going forward.

II. Applicability

This policy applies to all recipients of a grant and any subrecipients under the State Homeland Security Program (SHSP), Urban Area Security Initiative (UASI), Tribal Homeland Security Grant Program (THSGP), Nonprofit Security Grant Program (NSGP), and OPSG.

III. Guidance

A. Overview

1. Section 2008(b)(2)(A) of the *Homeland Security Act of 2002*, as amended, states: “Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 [of the *Homeland Security Act of 2002*] in any fiscal year may

be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under [section 2008(a)].”

2. Section 2008(a) states, in part, with respect to permitted uses: *“The Administrator shall permit the recipient of a grant under section 2003 or 2004 [of the Homeland Security Act of 2002] to use grant funds to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans”*

B. Clarification of Personnel Costs

1. To comply with section 2008(b)(2) of the *Homeland Security Act of 2002*, as amended,¹ recipients are required to track personnel and personnel-related activities to ensure compliance with the 50 percent cap on personnel costs. In general, costs associated with the following ARE counted against the personnel cap:
 - a. Contracted personnel costs that support operational activities, including general planning, training or exercise activities, or contracted security costs; and
 - b. Work performed by all non-contractor personnel, including for full-time or part-time staff and overtime of any kind.
2. Work performed under contract for a specific deliverable IS NOT counted against the personnel cap. Under this provision, the following are examples of contract deliverables that are not counted against the personnel cap:
 - a. Vendor installation of a radio tower;
 - b. Vendor training on new equipment purchased;
 - c. Contractor hired to create an Emergency Operations Plan;
 - d. Contractor hired to provide deliveries of the ICS 400 course; and
 - e. Contractor hired to assist with planning, training, developing, and evaluating an exercise.

C. Waiver Requests

1. SHSP, UASI, and THSGP Waiver Request Process
 - a. Upon written request, the 50 percent personnel cap established by section 2008(b)(2)(A) of the *Homeland Security Act of 2002*, as amended, may be waived at the discretion of the FEMA Administrator pursuant to section 2008(b)(2)(B). Post-award SHSP, UASI, and THSGP requests to waive the 50 percent personnel cap should be coordinated through the assigned FEMA Program Analyst (PA). Recipients of a grant that request a waiver of the personnel cap are reminded that

¹“(b) LIMITATIONS ON USE OF FUNDS.—
(2) PERSONNEL.—

(A) IN GENERAL.—Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).

(B) WAIVER.—At the request of the recipient of a grant under section 2003 or 2004, the Administrator may grant a waiver of the limitation under subparagraph (A).

they may not incur any costs in excess of the 50 percent cap prior to the approval of the waiver request by the FEMA Administrator.

- b. FEMA will prioritize personnel waiver requests that are well justified by threat data. FEMA will also continue to prioritize personnel cap waiver requests for OPSG.

2. NSGP Waiver Request Process

- a. Nonprofit organizations that apply for and are awarded NSGP funds for contracted security personnel, if allowable under the appropriate NSGP Notice of Funding Opportunity (NOFO), must count such costs toward the nonprofit organization's 50 percent personnel cap.
 - i. Application and Award: If the estimated contract security personnel costs at the time of application exceed 50 percent of a nonprofit organization's total funding amount, the application must include a waiver request. FEMA will review contracted security costs prior to award and, if approved, will waive the 50 percent personnel cap as a term and condition of the award.
 - ii. Post-Award: If the contracted security personnel costs at the time of award do not exceed the 50 percent personnel cap, but a later reprogramming request would cause the nonprofit organization to exceed the 50 percent personnel cap, the nonprofit organization must submit a waiver request with its reprogramming request. See IB 441 for procedures on NSGP reprogramming requests.
 - iii. Justification: FEMA will only approve personnel waiver requests that are well justified based on vulnerability assessment results and how the contracted security personnel will address and mitigate those vulnerabilities.

3. OPSG Waiver Request Process

- a. For OPSG grants awarded in FY 2018 and earlier: Follow same process as SHSP, UASI, and THSGP as described in section III.C.1 and as described in the grant award's respective NOFO.
- b. New process for OPSG grants awarded in FY 2019 and moving forward: A State Administrative Agency (SAA) that receives an OPSG allocation under its Homeland Security Grant Program (HSGP) award may submit a one-time waiver request to FEMA to waive the 50 percent personnel cap, up to a maximum of 85 percent, for each initial subrecipient allocation, as listed in the award document. The approved waiver will apply to the amount of funding each local or tribal subrecipient receives as funding is passed through, depending on each state's management of the program. The guidance in this subsection supersedes the guidance in the Preparedness Grants Manual (April 2019) and the FY 2019 HSGP NOFO to the extent it governs the process for the SAAs to apply for an initial waiver. The SAA shall submit a written waiver request after the award is accepted by the SAA and shall be addressed to the Assistant Administrator, Grant Programs Directorate.

- i. A request letter shall include the award number, the name of each county receiving an OPSG allocation for which the State seeks a personnel cap waiver and the amount of each allocation. To assist SAAs in developing the request letter, guidance can be requested through their assigned Program Analyst.
- ii. FEMA will review and consider each SAA request. If approved, FEMA will issue an approval letter waiving the 50 percent personnel cap for each initial subrecipient allocation which will allow each initial subrecipient to expend up to 85 percent of their allocation on personnel costs. The 85 percent waiver applies to each initial subrecipient allocation, inclusive of any subsequent subawards issued by the initial subrecipient. The approval letter shall become part of the official grant file and uploaded to ND Grants by FEMA.
- iii. The SAA must submit a separate waiver request letter for each fiscal year award.
- iv. If any subrecipient has a need to expend more than 85 percent of its allocation on personnel costs, the SAA must submit a separate waiver request to FEMA in accordance with the process described in section III.C.1, above.
- v. All OPSG Operational Orders, budgets, and subsequent revisions will undergo the normal review process with the United States Border Patrol (USBP) and FEMA otherwise prescribed by the applicable NOFO and Preparedness Grants Manual. Specifically, a formal OPSG personnel waiver request should:
 - Be on official letterhead, include a written justification, and be signed by the local jurisdiction
 - Include a budget and method of calculation of personnel costs both in the percentage of the grant award and in total dollar amount, reflecting the change in scope or objective to the project
 - Include an approved Operations Order from the USBP Sector office that supports the local jurisdiction's written justification
 - Be coordinated with the USBP Sector, SAA, and the DHS/CBP Office of the Border Patrol (OBP).

D. Monitoring and Compliance

GPD will ensure compliance with this policy through its annual financial and programmatic monitoring program. FEMA preparedness grant recipients and subrecipients that fail to comply with this policy may not receive reimbursement through the applicable grant program.

IV. Questions

Questions regarding this IB may be directed to your assigned FEMA PA or the Centralized Scheduling and Information Desk (CSID) at askcsid@fema.dhs.gov or (800) 368-6498, Monday through Friday, 9:00 a.m. – 5:00 p.m. ET.

V. Review Date

This IB will be reviewed within five years from date of issuance.