

# **HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS PROGRAM RECIPIENT REVIEW AND ASSESSMENT**

## **PHMSA APPROACH TO RECOMMENDATIONS January 2012**

### **HMEP Program Background**

The Pipeline and Hazardous Materials Safety Administration (PHMSA) administers the Hazardous Materials Emergency Preparedness (HMEP) Grant Program (program). The program was established in 1993 to ensure that local planning and training needs are met, enabling the protection of the public through effective response to transportation-related hazardous materials (hazmat) incidents. Designated agencies and entities with the 50 States, U.S. territories, and Native American Indian Tribes (tribes) are eligible for HMEP Grant funding. Among the statutory requirements for HMEP grants are discrete funding for planning and training with pass-through requirements, use of the prevalence of hazmat indicators within States, territories, and tribes in determining funding amounts, and maintenance of the level of aggregate expenditures by a recipient for a prior period.

### **Summary of the HMEP Program Recipient Review and Assessment**

In 2009, PHMSA recognized the need to enhance the HMEP program by improving processes and procedures. Those initiatives began with an internal audit of the program and subsequent development and implementation of an action plan. Issues addressed included internal controls, evaluation of grantee performance, and the application process. As an additional enhancement, PHMSA implemented the GrantSolutions system, which is an Office of Management and Budget (OMB) Center of Excellence system that institutes OMB Circular A-123 internal control requirements.

In August 2010, PHMSA contracted LMI to conduct a more robust independent review and assessment of the HMEP Grant program and offer recommendations for program improvements. LMI was initially instructed by PHMSA to assess 13 grant awards administered during the HMEP 2007–2008 grant cycle, the most recently completed cycle. During LMI’s review of the original 13 grants selected, LMI proposed to PHMSA that the types of issues being found were (1) not unique to the 2007-2008 grant cycle or the selected grant recipients; (2) were due, in large part, to the overall design and handling of the program; and (3) needed to be corrected or improved by grant recipients. PHMSA instructed that three more recipients be added to the sample, for a total of 16. To provide for a more complete analysis, PHMSA also provided 2006-2007 and 2008-2009 grantee reports.

In August 2011, the “Hazardous Materials Emergency Preparedness Program: Recipient Review and Assessment” (report) was developed. The report summarizes the assessment results, proposes opportunities for program improvements, and provides 18 recommendations for consideration in the following areas:

- ◆ PHMSA management approach and processes,
- ◆ Regulations, guidance, and award terms and conditions,
- ◆ Training and technical assistance, and
- ◆ Management information.

Following is a list of the 18 categorized recommendations, with a summary of PHMSA’s program enhancements made to date.

## **18 Recommendations**

### **PHMSA Management Approach and Processes**

1. Because the HMEP grant program is relatively small, the outcome of the assessment determined it was not necessary to have separate grants management and technical staffs; however, it is recommended that designated personnel become a “center of grants management excellence,” while others become experts in HMEP programmatic aspects, such as best practices in planning and commodity flow studies, and that each grant be administered by a pair of HMEP program employees—one with grants management expertise and the other with technical expertise. Although PHMSA may need to hire several additional personnel, the recommended approach would add some dimensions that are not possessed by the current staff. Such an approach would:
  - ◆ Increase the credibility of PHMSA staff members with their counterparts in the States and other recipients who have planning backgrounds,
  - ◆ Allow PHMSA personnel to gain in-depth knowledge of individual recipients and share best practices as a team,
  - ◆ Result in a “bigger picture” approach to the management of HMEP grants, and
  - ◆ Allow greater PHMSA presence for on-site review and monitoring, and provision of technical assistance.
  
2. PHMSA should ensure that it balances successful programmatic outcomes against appropriate expenditure of grant funds. To accomplish this, PHMSA, working with the Department of Transportation’s (DOT) legal counsel, should reconsider certain processes, including the possible use of:
  - ◆ A formula basis for funding only as required by statute (i.e., for training) and then, only as a basis for determining part of the funding, complemented by awards of additional amounts based on past performance, demonstrated need, and other factors;
  - ◆ A means other than a formula to determine funding amounts for planning;
  - ◆ Separate applications for planning and training, submitted at different points in the year;

- ◆ A reallocation process for funds that will not be obligated by recipients; and
  - ◆ Advances for planning activities by LEPCs.
3. Working with legal counsel, PHMSA should explore the potential for, and advantages and disadvantages of, approving awards for planning that cover multiple years, while still providing funding each year (i.e., continuation funding).
  4. PHMSA should implement a qualitative application review process and should delay or impose conditions on awards if an application is deficient.
  5. PHMSA should partner with FEMA to better understand the potential for overlap, duplication, or gaps; ensure appropriate allocation of funds by recipients; and stretch its oversight resources.

PHMSA, in concert with FEMA, should:

- ◆ Determine and enforce a schedule of mandatory refresher training for all classifications of trained hazmat workers within their jurisdictions, and
  - ◆ Develop clear guidelines as to the use and function of regional response teams, their training requirements, and need for operational planning that includes LEPCs within the sphere of responsibility of the regional response teams. This planning should include commonality of training and coordinated use of the LEPCs in incidents that may require deployment of the regional response teams.
6. PHMSA should review courses being charged to HMEP funds for confined space entry training to ensure that the training meets the minimum requirements for confined space entry as defined by OSHA.
  7. PHMSA should consider requiring SERCs and LEPCs to:
    - ◆ Maintain training logs that clearly state who (by classification, name, and location) requires training and for what reason;
    - ◆ Match training rosters for those needing training with those trained; and
    - ◆ Provide refresher training at each classification level of hazmat training.
  8. PHMSA should continue to improve post-award monitoring, and review program performance and aspects of compliance other than making certain the numbers match, including:
    - ◆ Performing risk assessments that may warrant closer monitoring, including site visits;

- ◆ Ensuring that terms and conditions are enforced, e.g., timely and accurate reporting, and considering taking appropriate enforcement actions;
  - ◆ Ensuring that any templates provided are clear and can provide useful information for management of the program rather than being used only to fulfill the congressional reporting requirement;
  - ◆ Performing a qualitative review of required reports; and
  - ◆ Reviewing OMB Circular A-133 audit reports for systemic problems that may affect HMEP awards.
9. As the HMEP program undergoes its transition, PHMSA should ensure that recipients understand the seriousness of the deficiencies in their processes, while maintaining credibility and consistency for HMEP program personnel, many of who are still in a learning mode in their interactions with recipients. This may require in-depth training for PHMSA personnel, enhanced communication within PHMSA, training on HMEP requirements for recipient personnel, and providing technical assistance to recipients.

### **Regulations, Guidance, and Award Terms and Conditions**

10. PHMSA should work with legal counsel to revisit or, at a minimum, clarify certain requirements that are being ignored, are adhered to in the breach, are open to multiple interpretations, or do not reflect current programmatic emphases.
11. PHMSA should modify its program regulations to reflect the current administrative approach to the program. In that process, PHMSA should consider removing administrative requirements, such as financial reporting, from the regulations and rely on terms and conditions of award. This would avoid regulations that become out of date and also represents a Federal norm.
12. PHMSA should redo its application package and programmatic reporting templates to facilitate tracking of performance measures or quantitative information, e.g., number of trainees, from application through closeout. Any automated grants management systems being contemplated by PHMSA should allow for this.
13. PHMSA should ensure that the Notice of Grant Award constitutes the full legal agreement with recipients by:
- ◆ Redesigning it (consistent with any other changes made in the program) to include or refer to the approved object class budget(s), show the matching amounts, and show the indirect cost rate (if applicable), and
  - ◆ Revising the HMEP general award terms and conditions to include only relevant requirements, specifying clear reporting requirements, and providing requirements that are accurate and current. PHMSA should review the award terms and conditions annually to ensure they include any changed government-wide

requirements, e.g., current requirements with relation to sub-award reporting under the Federal Funding Accountability and Transparency Act.

## **Training and Technical Assistance**

14. PHMSA staff members should receive training on:

- ◆ Federal grants management, including how to specifically relate grants management requirements to the HMEP program and how to review application budgets and financial reports, and
- ◆ Requirements of the HMEP regulations, including how they relate to the requirements in 49 CFR 18 and the OMB cost principles.

15. Recipients should receive training that addresses particular issues, such as required quality of documentation, matching, sub-grant and vendor relationships, rebudgeting, and completion of the FFR.

16. PHMSA should consider using contractor personnel who are familiar with recipient operations, generally, and who can provide on-site technical assistance to recipients. A recipient's need for assistance may be identified by recipient request or by PHMSA in its post-award monitoring.

## **Management Information**

17. PHMSA should analyze the questions submitted to the portal, and the responses, to determine how best to organize and use that information in the program, whether as an annual synopsis, for staff and recipient training, or otherwise.

18. PHMSA should develop and maintain a database that includes, for each State, territory, and tribe, relevant characteristics, such as the individuals responsible for administering the HMEP grant, organizational location, other Federal awards administered by that office, number of LEPCs (as applicable), details of planning sub-grant processes, training approach, scope of the OMB Circular A-133 audit, and approach to requesting reimbursement. PHMSA can use this information to assess changes that may trigger the need for an on-site or desk review.

## **PHMSA's Approach to the Recommendations**

In March 2011, PHMSA launched a comprehensive action plan to address and enhance several key areas of policy, operations, and technical support as part of PHMSA's commitment to improving the HMEP Grant Program's performance. These improvement efforts establish greater accountability in program administration and grantee performance. These advances were accomplished through several significant efforts, including: 1) developing and implementing effective standard operating procedures (SOP); 2) providing appropriate levels of staff and support resources; 3) leveraging on-line information technology management systems; and 4) standardizing grantee applications, reports, and review processes. In December 2011, PHMSA

launched a follow-on Project Plan that builds on the program enhancement efforts of the March 2011 Action Plan.

Of the 18 recommendations made in the program evaluation and assessment, 13 recommendations are currently being addressed through the March 2011 Action Plan and corresponding Project Plan. Program enhancements made to date include, but are not limited to:

**Developed SOPs** – In March 2011, PHMSA issued revised SOPs to address the grant life cycle including grant administration and oversight based on current processes and IT systems.

**Updated Terms and Conditions** –PHMSA issued updated Terms and Conditions for grantees in the 2011-2012 grant cycle. The new Terms and Conditions increase grantee fund accountability and enable PHMSA to take action in cases of non-compliance. Grants management training was developed regarding the updated Terms and Conditions and was presented during a grantee conference in October 2011. PHMSA will continue to review the Terms and Conditions issued each year to ensure that they reflect current program policies and maximize grantee accountability.

**Leveraged Technology** – PHMSA is leveraging technology to improve grant management and educate grantees by implementing the GrantSolutions system. This program provides PHMSA with more internal controls in compliance with the Office of Management and Budget (OMB) Circular A-123 and automates application processing and awards. PHMSA also deployed the Grant Portal, which is a web-based tool allowing grantees the ability to submit payment requests and post-award activity changes via a centralized approval system. These systems enhance transparency and ensure expeditious processing.

**Increased Staff** – In 2010, PHMSA increased program staff to seven FTEs including an acting chief, five grant specialists, and an administrative support employee. The staff increase enabled PHMSA to improve grant administration, monitoring and oversight, and customer service. In July 2011, PHMSA hired a permanent Director for the Outreach, Training, Grants, and Registration Division.

**Provided Staff Training** - Grants staff are obtaining certificates of completion for grants management from Management Concepts and the USDA Graduate School. Additionally, in January 2012, PHMSA conducted training for grant specialists on how to review Standard Forms and final reports. Training consisted of a presentation, hands on exercises with performance feedback, and question and answer sessions.

**Developed and Implemented an Outreach Plan** – PHMSA is implementing a multi-faceted Outreach Plan that includes conducting webinars, and attending stakeholder events to provide grantees with real-time information sharing and training.

**Provided Grantee Training** - PHMSA performed six site visits, four desk reviews, and hosted four webinars. PHMSA continues to participate in the National Association of SARA Title III Program Officials (NASTTPO) Annual Conference and has begun to further leverage this opportunity to work with grantees. During the October 19-20, 2011,

NASTTPO mid-year conference, PHMSA facilitated four presentations on: PHMSA priorities, 2011-2012 HMEP Application Trends, HMEP Administrative Requirements, and HMEP Grant Management/Terms & Conditions. PHMSA also presented at various events including the October Hotzone conference attended by emergency responders, and several regional hazmat responder conferences including the Midwest Hazardous Materials Response Conference and the International Association of Fire Chiefs' Hazardous Materials Conference.

**Improved Monitoring and Request Processing** – PHMSA is focused on ensuring that approved grant activities are aligned and consistent with its program mission to ensure the safe transportation of hazmat. Since March 2011, applications and post-award change requests are reviewed and approved using a committee approach, including program leadership and counsel. This affords the team needed support of senior personnel and ensures consistency in administration practices.

**Partnered with FEMA** - On September 12, PHMSA and FEMA met to begin discussions of the programmatic differences in mission and stakeholders. PHMSA intends to continue meeting with FEMA to strengthen coordination and define our roles.

## **Five Recommendations for Future Consideration**

PHMSA intends to consider the following five recommendations after full implementation of the March 2011 Action Plan and corresponding Project Plan.

**Recommendation 1:** “It is recommended that designated personnel become a center of grants management excellence, while others become experts in HMEP programmatic aspects, such as best practices in planning and commodity flow studies, and that each grant be administered by a pair of HMEP program employees.”

**Reason for future consideration:** Implementation of this recommendation would require PHMSA to hire several additional grants personnel to adequately address the existing workload and allow for specialization. PHMSA intends to revisit this recommendation after the existing program enhancement efforts are complete, including staff training, to ensure staffing needs are determined based on improved process efficiencies, documentation, and training.

**Recommendation 2:** “Balance successful programmatic outcomes against appropriate expenditures of grant funds. To accomplish this, work with Legal Counsel to reconsider certain elements of the process, including the use of...”

**Reason for future consideration:** PHMSA's priority is to evaluate the existing funding allocation model and assess potential hazmat transportation risk indicators, including the use of commodity flow studies, for incorporation into an updated grant funds allocation model to ensure:

- ◆ Funding availability based on identified, current hazmat transportation risks, including the potential use of commodity flow data,

- ◆ Allocation, on a proportionate basis, to those grantees with potential hazmat transportation risks, and
- ◆ Inactive or low-performing grantees do not receive funds that must later be reduced or cancelled; and optimal funds are available to high-performing grantees in need of grant funding.

Once PHMSA implements and fully understands the impact of the updated funds allocation model on the grant program, PHMSA will revisit this recommendation in more detail to determine what additional programmatic changes may be necessary.

**Recommendation 3:** “Working with Legal Counsel, explore the potential for—and advantages and disadvantages of—approving awards for planning that cover multiple years, while still providing funding each year (i.e., continuation funding).”

**Reason for future consideration:** Once PHMSA implements and fully understands the impact of the updated funds allocation model on the grant program, PHMSA will revisit this recommendation in more detail to determine what additional programmatic changes may be necessary.

**Recommendation 7:** PHMSA should consider requiring SERCs and LEPCs to:

- ◆ Maintain training logs that clearly state who (by classification, name, and location) requires training and for what reason;
- ◆ Match training rosters for those needing training with those trained; and
- ◆ Provide refresher training at each classification level of hazmat training.

**Reason for future consideration:** PHMSA is working more closely with grantees to better ensure sub-grant dollars are used to meet PHMSA’s program mission. Efforts include improved grantee monitoring, site visits, and desk reviews. We will assess the need to implement this recommendation as we continue to enhance program components, policies, and practices.

**Recommendation 18:** “Develop and maintain a database that includes, for each State, territory, and tribe, relevant characteristics, such as the individuals responsible for administering the HMEP grant, organizational location, other Federal awards administered by that office, number of LEPCs, type of planning sub-grant process, training approach, scope of the Office of Management and Budget Circular A-133, and approach to requesting reimbursement.”

**Reason for future consideration:** PHMSA is undergoing an IT modernization effort, including technology leveraging, to improve grants management. PHMSA will revisit this recommendation once the IT modernization effort is complete and any new grant systems are in place. This will allow PHMSA to determine what information is needed and how the information will be stored based on current and available systems and databases.



## **Conclusion**

PHMSA continues to make significant progress in reforming the HMEP Grant Program with the understanding that some benefits will not be realized for several grant cycles. Developments will continue on other efforts to improve the efficacy of PHMSA's program including implementation of grantee training program evaluations, and the development of additional guidance on effective uses of planning funds.