



U.S. Department of Transportation

**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, SE
Washington, D.C. 20590

2016 HMEP Grant Application Webinar Questions and Answers

Q. Where did we get the incident data we used for the formula?

A. We use the incident data collected by PHMSA in accordance with 49 CFR § 171.16(a), which requires that each person in physical possession of a hazardous material at the time that any of the following incidents occurs during transportation (including loading, unloading, and temporary storage) must submit a Hazardous Materials Incident Report on DOT Form F 5800.1 (01/2004) within 30 days of discovery of the incident:

- Any of the circumstances set forth in §171.15(b);
- An unintentional release of a hazardous material or the discharge of any quantity of hazardous waste;
- A specification cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material suffers structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material;
- An undeclared hazardous material is discovered; or
- A fire, violent rupture, explosion or dangerous evolution of heat (i.e., an amount of heat sufficient to be dangerous to packaging or personal safety to include charring of packaging, melting of packaging, scorching of packaging, or other evidence) occurs as a direct result of a battery or battery-powered device.

The incident data can be found here:

<https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/IncrSearch.aspx>

Q. What is the difference between the old and the new formula?

A. Under the old formula, funds are split between training (60% of available funds) and planning (40% of available funds) to states and territories; 3% of funds are set aside for Native American tribes who apply via competitive application process; and base allocations are evenly distributed from a fixed amount (a total of \$1,680,000 for training grants, \$2,000,000 for planning grants). However, the current formula does not respond to changes in risk and is not updateable with current data.

The old formula uses 5 data sources: census population, state highway miles, Truck Inventory Use Survey (TIUS) HM truck miles, SARA 302 facilities, and Tier II facilities. The TIUS survey was discontinued in 2002 (current grants use 1987 data); SARA 302 and Tier II facilities counts appear to be from the start of the program and are not currently collected by PHMSA, EPA or any other entity at the Federal level. In fact, only Census and Highway Miles are updatable. Other drawbacks with the existing formula are



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that no documentation exists explaining the reasoning behind the choice of data sources or size of weights and it does not take into account modes other than highway.

In developing the new formula, we considered the purpose of the HMEP grant: HMEP grants are intended to prepare responders and agencies to mitigate the negative impacts associated with HM transport incidents. We concluded that a new formula should allocate funds in proportion to the potential risk of HM incidents occurring in a given state, territory or tribal land as well as the estimated costs for potential HM incidents.

The new formula closely tracks risk of HM incidents in States. It includes information on multiple modes: highway, water, air, and rail and accounts for severity of incidents. It uses data that can be updated, and is flexible to allow for other information, such as current commodity flow studies when they become available. It does not include data on territories and tribes. Territories will retain their FY15 allocations until additional risk related data become available. Federally recognized tribes will compete for 3.5% of the available HMEP funds.

Applying the risk based formula without programmatic concerns built in, such as deobligation rates and the need to provide some level of funding to every state regardless of risk, would provide vast increases to some grantees (one grantee would receive over 2 million dollars) and extreme decreases to other states (some states would receive less than 100,000). To smooth the effects of the formula, PHMSA is establishing a 25% base and a \$1.5M cap.

Q. Will the new formula be used in all years of the 3-year grant cycle?

A. Yes. To smooth the effects of the formula, PHMSA is establishing a 25% base and a \$1.5M cap. In the first year of the three year grant cycle, we will account for past performance to ensure that grantees are capable of handling significant increases in funds. Past performance will also be used to identify grantees that have a consistent record of expending more than 90% of their award.

Grantees that have a 3-year average of 20% or more in de-obligations are considered “high risk” for expenditure purposes. If the formula shows that such a grantee is set to get an increase; we will retain the old allocation levels. If the high risk grantee was set to get a decrease, we will implement the new formula allocation.

If a grantee is considered “medium risk,” we will apply the new formula. Lastly, if the grantee is low risk and set to get a decrease, we will retain the old allocation levels; if the low risk grantee is set to get an increase, we will implement the new formula allocation. **Past performance will only be factored into the allocation for the first year of this three year grant cycle.** In future grant years we will implement the formula with only the base and the cap factored in.



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Q. If grantee expenditures in the first year of the three year cycle exceed the year one allocation amount, will the grantee have to wait until the next fiscal year to be reimbursed?

A. Yes. As HMEP grant funds are derived from an annual shipper and carrier hazmat registration fee, PHMSA relies on annual collections to fund the grant program. PHMSA cannot allocate the funds until they are collected. Grantees will be able to receive payment up to the first year's allocation during the first year.

Q. In the FY16 HMEP grant application, does the grantee have to give detailed information for all three years?

A. No. Applications must reflect 3-year period of performance. Year-1 project narrative must have detailed activities, timeline, budget narrative and goals. Years 2 and 3 may have targets identified in the project and budget narrative, but does not require the level of detail as Year 1. Year-2 and Year-3 will be fully described in the continuing applications that will be submitted.

Q. What if my state will not have completed subgrant activity in time to include full details in the project narrative for Year-1?

A. The HMEP grant program is a discretionary grant. While PHMSA has historically chosen to administer the grant based on a formula to distribute funds in an equitable manner, the agency has discretion on grant funding. As a discretionary grant, applicants must detail the activities they are requesting funding for. Starting in FY16, PHMSA will no longer approve applications that do not identify the activities for which they plan to use funding. However, because this is a significant change for some applicants, there will be some flexibility in Year-1 to allow for the transition.

If the applicant cannot detail activities in Year-1 due to a state/territory subgrant process that will be completed beyond the application due date, then, in Year-1 only, applicants may use estimates based upon the needs assessment and/or historical data and use these for the project narrative in the application. Applicants must state how these subgrant costs were estimated for Year-1. A statement that the application is passing through funds is not acceptable, and the application will be immediately returned for revisions.

Unacceptable: A statement that the applicant will subgrant 75% of funding for allowable HMEP activities.

Preferred: Exact details for all of the proposed grant activities, including details of subgrant recipients.



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Acceptable (in Year 1 only): Estimates for the number and type of subgrants based upon needs assessment and historical data. Include a statement as to how applicants will change the subgrant processes so that Year-2 and Year-3 continuing applications will have full subgrant details included.

Q. How should the application be formatted?

A. The application should be formatted in accordance with instructions in the Funding Opportunity Announcement (FOA) posted on grants.gov. Do not copy and paste last year's HMEP budget and project narrative. Please follow the chronology of the funding announcement.

Q. Are HMEP grantees required to submit quarterly reports?

A. No. Each year grantees are required to submit two financial reports and one programmatic report. Should the program receive OMB approval to implement midyear performance reporting, those requirements will be added to the terms and conditions during the NGA amendments phase for Year 2. Please refer to the FOA for due dates. The terms and conditions of the NGA will have complete submission and due date information.

Q. Are planning and training activities at fixed facilities allowable expenditures under the HMEP grant?

A. No. However, training and planning activities for incidents that may occur in route to a fixed facility, including storage incidental to movement as defined in 49 CFR § 171.8, are allowable activities. Applicants must describe the connection to hazmat transportation preparedness.

Q. If an activity is not detailed in the HMEP grant application, may we still get reimbursement through a prior approval/activity request through the grants portal?

A. Yes.

Q. Did the FAST Act fund the HMEP grant for 3 years?

A. No. HMEP grant funds are derived from annual hazardous materials registration fees paid by shippers and carriers of certain types and quantities of hazardous materials. Congress determines how much PHMSA may expend each year for the HMEP grant through the annual appropriations process.

Q. Will the cap and base to the new formula be in place all three years?

A. Yes.



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Q. How can Local Emergency Planning Committees (LEPC) get HMEP funding without an active State Emergency Response Commission?

A. According to 42 U.S. Code § 11001, if the Governor of any State has not designated a State emergency response commission, the Governor shall operate as the State emergency response commission until the Governor makes such designation.

Q. If a tribe or intertribal council does not have a Tribal Emergency Response Commission (TERC) what is the avenue for a tribal LEPC get funding?

A. According to guidance posted on EPA's website, the chief executive officers of federally recognized Tribes must appoint Tribal Emergency Response Commissions (TERCs), responsible for carrying out the provisions of EPCRA in the same manner as State Emergency Response Commissions (SERCs). Alternatively, Tribal leaders can join a Tribal Coalition which functions as the TERC, or establish a Memorandum of Understanding with a State to participate under the SERC.

TERCs establish emergency planning districts and can appoint Local Emergency Planning Committees (LEPCs) or act as TERCs/LEPCs, performing the functions of both. LEPCs use information collected under EPCRA to develop local emergency response plans to respond quickly to chemical accidents. The chief executive officer should ensure that TERCs maintain a broad based representation, including Tribal public agencies and departments dealing with environmental, energy, public health and safety issues, as well as other tribal community groups with interest in EPCRA. The Tribal LEPC should also be representative of the community, and should include elected Tribal officials, fire chiefs, Indian Health Services officials, Bureau of Indian Affairs officials, Tribal elders and leaders, representatives of industries on or near the reservation, and members of the general community.

(see: [http://www3.epa.gov/twebhelp/WebHelp/epcra_provisions_for_indian_lands_q_a_234 .htm](http://www3.epa.gov/twebhelp/WebHelp/epcra_provisions_for_indian_lands_q_a_234.htm))

Q. In the application, will there be one budget for both planning and training?

A. Yes. Do not separate planning and training in the 424A or budget narrative. Planning and training are now combined.

Q. Can tribes apply for a match waver?

A. No, but the match can be met in various ways, including donations, and volunteer hours.

Q. The first required item in the FY16 Project Narrative is a letter from the governor designating the entity to receive Federal funds. Our agency has been the



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designated SAA for the HMEP funds from the beginning and there have been no changes. Do we really need to go through the process of getting a new letter for some administrative purpose?

A. An HMEP grant applicant may either provide a letter from the governor that designates the entity to receive Federal funds or, the grantee may provide in the application the citation for the applicable state law that designates the entity to receive funds.

Q. What is the page limit for the application's project narrative?

A. Please limit your project narrative to 20 pages.

GUIDANCE ON SPECIFIC APPLICATIONS:

PHMSA is unable to make any pre-application determinations as to the allowability of costs for contemplated grantee work. Applicants should submit its proposals in their application using the process/procedures set out in the HMEP Announcement.