

**FOR FURTHER INFORMATION CONTACT:**

Jennie Orenstein, Chief, HMA Grants Policy Branch, 202–212–4071. You may contact Records Management Division for copies of the proposed collection of information at email address: [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, established the Hazard Mitigation Grant Program. Grant requirements and grants management procedures of the program are outlined in 44 CFR part 206 Subpart N and 2 CFR part 200. FEMA administers the HMGP, and Grantees implement the grants under the HMGP per grant agreement and rules and regulations. The HMGP is a post-disaster program that contributes funds toward the cost of hazard mitigation activities in order to reduce the risk of future damage, hardship, loss or suffering in any area affected by a major disaster. Grantees are defined as any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or an Indian tribal government that chooses to act as a grantee.

**Collection of Information**

*Title:* Hazard Mitigation Grant Program (HMGP) Application and Reporting.

*Type of Information Collection:* Extension, without change, of a currently approved information collection.

*OMB Number:* 1660–0076.

*FEMA Forms:* FEMA Form 009–0–111A, Quarterly Progress Reports.

*Abstract:* FEMA administers the Hazard Mitigation Grant Program, which is a post-disaster program that contributes funds toward the cost of hazard mitigation activities in order to reduce the risk of future damage hardship, loss or suffering in any area affected by a major disaster. FEMA uses applications to provide financial assistance in the form of grant awards and, through grantee quarterly reporting, monitor grantee project activities and expenditure of funds.

*Affected Public:* State, local or Tribal Government.

*Number of Respondents:* 56.

*Number of Responses:* 4,626.

*Estimated Total Annual Burden*

*Hours:* 48,572.

*Estimated Cost:* None.

**Comments**

Comments may be submitted as indicated in the **ADDRESSES** caption

above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: October 20, 2016.

**Richard W. Mattison,**

*Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2016–25896 Filed 10–25–16; 8:45 am]

**BILLING CODE 9111–47–P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID FEMA–2016–0030]

**Assistance to Firefighters Grant Program**

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

**ACTION:** Notice of availability of grant application and application deadline.

**SUMMARY:** Pursuant to the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2229), the Administrator of the Federal Emergency Management Agency (FEMA) is publishing this notice describing the Fiscal Year (FY) 2016 Assistance to Firefighters Grant (AFG) Program application process, deadlines, and award selection criteria. This notice explains the differences, if any, between these guidelines and those recommended by representatives of the national fire service leadership during the annual meeting of the Criteria Development Panel, which was held November 9–10, 2015. The application period for the FY 2016 AFG Program will be held October 11, 2016 through November 18, 2016, and will be announced on the AFG Web site

[www.fema.gov/firegrants](http://www.fema.gov/firegrants), as well as [www.grants.gov](http://www.grants.gov).

**Authority:** 15 U.S.C. 2229.

**DATES:** Grant applications for the Assistance to Firefighters Grants will be accepted electronically at <https://portal.fema.gov>, from October 11, 2016 through November 18, 2016, at 5:00 p.m. Eastern Time.

**ADDRESSES:** Assistance to Firefighters Grants Branch, DHS/FEMA, 400 C Street SW., 3N, Washington, DC 20472–3635.

**FOR FURTHER INFORMATION CONTACT:** Catherine Patterson, Branch Chief, Assistance to Firefighters Grant Branch, 1–866–274–0960.

**SUPPLEMENTARY INFORMATION:** The AFG Program awards grants directly to fire departments, nonaffiliated emergency medical services (EMS) organizations, and state fire training academies (SFTAs) for the purpose of enhancing the abilities of first responders to protect the health and safety of the public, as well as first-responder personnel facing fire and fire-related hazards.

Applications for the FY 2016 AFG Program will be submitted and processed online at <https://portal.fema.gov>. Before the application period starts, the *FY 2016 AFG Notice of Funding Opportunity* (NOFO) will be published on the AFG Web site [www.fema.gov/firegrants](http://www.fema.gov/firegrants). The AFG Web site will also provide additional information and materials useful to applicants including: (1) *Frequently Asked Questions*; (2) *Get Ready Guide*; and (3) *Quick Reference Guide*. Based on past AFG application periods, it is expected that 10,000 to 15,000 applications will be submitted for FY 2016 AFG Program grant funds. FEMA anticipates that it will be able to award approximately 3,000 grants with the available grant funding.

**Appropriations**

For the FY 2016 Assistance to Firefighters Grant Program, Congress appropriated \$345,000,000 (see: the *Department of Homeland Security Appropriations Act, 2016*, Public Law 114–1130. From this amount, \$310,500,000 will be made available for AFG awards. In addition, the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2229), requires that a minimum of 10 percent of available funds be expended for Fire Prevention and Safety Grants (FP&S), to be made directly to local fire departments and to local, regional, state, or national entities recognized for their expertise in the fields of fire prevention and firefighter safety research and development. Funds appropriated for

FY 2016 will be available for obligation and award until September 30, 2017.

The Federal Fire Prevention and Control Act of 1974 further directs FEMA to administer the appropriations according to the following requirements:

- *Career (fire department)*: Not less than 25 percent of available grant funds.
- *Volunteer (fire department)*: Not less than 25 percent of available grant funds.
- *Combination (fire department) and departments using paid-on-call firefighting personnel*—not less than 25 percent of available grant funds.
- *Open Competition*: Career, volunteer, and combination fire departments and fire departments using paid-on-call firefighting personnel—not less than 10 percent of available grant funds awarded.
- *Emergency Medical Services Providers*: Fire departments and nonaffiliated EMS organizations; not less than 3.5 percent of available grants funds awarded, with nonaffiliated EMS providers receiving no more than 2 percent of the total available grant funds.
- *State Fire Training Academies (SFTAs)*: No more than 3 percent of available grant funds shall be collectively awarded to state fire training academy applicants, with a maximum of \$500,000 to be awarded per applicant.
- *Vehicles*: Not more than 25 percent of available grant funds may be used for the purchase of vehicles; 10 percent of the total vehicle funds will be dedicated to funding ambulances. The allocation of funding will be distributed as equally as possible among urban, suburban, and rural community applicants. The remaining Vehicle Acquisition funds will be awarded competitively without regard to community classification.
- *Micro Grants*: This is a voluntary funding limitation choice made by the applicant for requests submitted for Operations and Safety Grant Component Program; it is not an additional funding opportunity. Micro Grants are awards that have a federal participation (share) that does not exceed \$25,000. Only fire departments and nonaffiliated EMS organizations are eligible to choose Micro Grants, and the only eligible Micro Grants activities are Training, Equipment, Personal Protective Equipment (PPE), and Wellness and Fitness. Applicants that select Micro Grants as a funding opportunity may receive additional consideration for award. If an applicant selects Micro Grants in their application, they will be limited in the total amount of funding their organization can be awarded; if they are requesting funding in excess of

\$25,000 federal participation, they should not select Micro Grants.

### Background of the AFG Program

Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and related hazards. FEMA awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

### Application Evaluation Criteria

Prior to making a grant award, FEMA is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 to review information available through any Office of Management and Budget (OMB)-designated repositories of government-wide eligibility qualification or financial integrity information. Therefore, application evaluation criteria may include the following risk based considerations of the applicant: (1) Financial stability; (2) quality of management systems and ability to meet management standards; (3) history of performance in managing federal award; (4) reports and findings from audits; and (5) ability to effectively implement statutory, regulatory, or other requirements.

FEMA will rank all complete and submitted applications based on how well they match program priorities for the type of jurisdiction(s) served. Answers to activity-specific questions provide information used to determine each application's ranking relative to the stated program priorities.

Funding priorities and criteria for evaluating AFG applications are established by FEMA based on the recommendations from the Criteria Development Panel (CDP). The CDP is comprised of fire service professionals that make recommendations to FEMA regarding the creation of new or the modification of previously established funding priorities, as well as developing criteria for awarding grants. The content of the NOFO reflects implementation of the CDP's recommendations with respect to the priorities and evaluation criteria for awards.

The nine major fire service organizations represented on the CDP are:

- International Association of Fire Chiefs

- International Association of Fire Fighters
- National Volunteer Fire Council
- National Fire Protection Association
- National Association of State Fire Marshals
- International Association of Arson Investigators
- International Society of Fire Service Instructors
- North American Fire Training Directors
- Congressional Fire Service Institute

### Review and Selection Process

AFG applications are reviewed through a multi-phase process. First, applications are electronically pre-scored and ranked; then scored competitively by (no less than three) members of the Peer Review Panel. Applications are also evaluated through a series of internal FEMA review processes for completeness, adherence to programmatic guidelines, technical feasibility, and anticipated effectiveness of the proposed project(s). The review process is outlined below:

#### 1. Pre-Scoring Process

The application undergoes an electronic pre-scoring process based on established program priorities listed within the NOFO. Application narratives are not reviewed during pre-scoring. Request details and budget information should comply with program guidance and statutory funding limitations. The pre-score is 50 percent of the total application score.

#### 2. Peer Review Panel Process

Applications with the highest pre-score will be evaluated by a peer review process. The peer review is comprised of fire service representatives recommended by CDP national organizations. The panelists assess the merits of each application with respect to the detail provided in the narrative section of the application, including the evaluation elements listed in the Narrative Evaluation Criteria below. The panel will independently score each project within the application, discuss the merits and/or shortcomings of the application, and document its findings. A consensus is not required. The panel score is 50 percent of the total application score.

#### 3. Technical Evaluation Process

The highest ranked applications are deemed within the fundable range. Applications that are in the fundable range undergo both a technical review by a subject matter expert (SME), as well as a FEMA AFG Branch review prior to being recommended for award. The

FEMA AFG Branch will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending an application for award.

Once the technical evaluation process is complete, the cumulative score for each application will be determined and a final ranking of applications will be generated. FEMA will award grants based on this final ranking and the required funding limitations in statute.

### Narrative Evaluation Criteria

#### 1. Financial Need (25%)

Applicants should describe their financial need and how consistent it is with the intent of the AFG Program. This statement should include details describing the applicant's financial distress, summarizing budget constraints, unsuccessful attempts to secure other funding, and proving the financial distress is out of their control.

#### 2. Project Description and Budget (25%)

This statement should clearly explain the applicant's project objectives and the relationship between those objectives and the applicant's budget and risk analysis. The applicant should describe the various activities applied for with respect to any program priority or facility modifications, ensuring they are consistent with project objectives, the applicant's mission, and any national, state, and/or local requirements. Applicants should link the proposed expenses to operations and safety, as well as the completion of the project goals.

#### 3. Operations and Safety/Cost Benefit (25%)

Applicants should describe how they plan to address the operations and personal safety needs of their organization, including cost effectiveness and sharing assets. This statement should also include details about gaining the maximum benefits from grant funding by citing reasonable or required costs, such as specific overhead and administrative costs. The applicant's request should also be consistent with their mission and identify how funding will benefit their organization and personnel.

#### 4. Statement of Effect/Impact on Daily Operations (25%)

This statement should explain how this funding request will enhance the organization's overall effectiveness. It should address how this request will improve daily operations and reduce the organization's common risk(s). Applicants should include how frequently the requested item(s) will be

used and in what capacity. Applicants should also indicate how the requested item(s) will help the community and increase the organization's ability to save additional lives and property.

### Eligible Applicants

**Fire Departments:** Fire departments operating in any of the 56 states, which include any state of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico; or, any federally recognized Indian tribe or tribal organization, are eligible applicants. A fire department is an agency or organization having a formally recognized arrangement with a state, territory, local, or tribal authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a geographically fixed primary first due response area.

**Nonaffiliated EMS organizations:** Nonaffiliated EMS organizations operating in any of the 56 states, which include any state of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico; or, any federally recognized Indian tribe or tribal organization, are eligible applicants. A nonaffiliated EMS organization is an agency or organization that is a public or private nonprofit emergency medical services entity providing medical transport that is not affiliated with a hospital and does not serve a geographic area in which emergency medical services are adequately provided by a fire department.

FEMA considers the following as hospitals under the AFG Program:

- Clinics
- Medical centers
- Medical college or university
- Infirmary
- Surgery centers
- Any other institution, association, or foundation providing medical, surgical, or psychiatric care and/or treatment for the sick or injured.

**State Fire Training Academies:** A State Fire Training Academy (SFTA) operating in any of the 56 states, which includes any state of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Puerto Rico is an eligible applicant. Applicants must be designated either by legislation or by a Governor's declaration as the sole state fire service training agency within a

state. The designated SFTA shall be the only State agency/bureau/division, or entity within that State, to be an eligible AFG SFTA applicant.

### Ineligibility

- FEMA considers two or more separate fire departments or nonaffiliated EMS organizations sharing facilities as being one organization. If two or more organizations share facilities, and each organization submits an application in the same program area, FEMA may deem all of those program area applications to be ineligible to avoid any duplication of benefits.

- Fire-based EMS organizations are *not* eligible to apply as nonaffiliated EMS organizations. Fire-based EMS training and equipment must be requested by a fire department under the AFG component program Operations and Safety.

### Statutory Limits to Funding

Congress has enacted statutory limits to the amount of funding that a grant recipient may receive from the AFG Program in any single fiscal year (15 U.S.C. 2229(c)(2)) based on the population served. Awards will be limited based on the size of the population protected by the applicant, as indicated below. Notwithstanding the annual limits stated below, the FEMA Administrator may not award a grant in an amount that exceeds one percent of the available grants funds in such fiscal year, except where it is determined that such recipient has an extraordinary need for a grant in an amount that exceeds the one percent aggregate limit.

- In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of available grant funds awarded to such recipient shall not exceed \$1 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of available grant funds awarded to such recipient shall not exceed \$2 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1 million people, the amount of available grant funds awarded to such recipient shall not exceed \$3 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 1 million people but not more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed \$6 million for any fiscal year, but is subject to the one percent aggregate cap of \$3,450,000 for FY 2016.

- In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed \$9 million in any fiscal year, but is subject to the one percent aggregate cap of \$3,450,000 for FY 2016.

- FEMA may not waive the caps on the maximum amount of available grant funds awarded based upon population.

The cumulative total of the federal share of awards in Operations and Safety, Regional and Vehicle Acquisition activities will be considered when assessing award amounts and any limitations thereto. Applicants may request funding up to the statutory limit on each of their applications.

For example, an applicant that serves a jurisdiction with more than 100,000 people but not more than 500,000 people may request up to \$2 million on their Operations and Safety Application and up to \$2 million on their Vehicle Acquisition Request. However, should both grants be awarded, the applicant would have to choose which award to accept if the cumulative value of both applications exceeds the statutory limits.

#### Cost Sharing and Maintenance of Effort

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with applicable federal regulations governing grants in effect at the time a grant is awarded to a grant recipient, but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA will contact potential awardees to determine whether the grant recipient has the funding in hand or if the grant recipient has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking a grant shall agree to make available non-federal funds equal to not less than 15 percent of the grant awarded. However, the cost share will vary as follows based on the size of the population served by the organization:

- Applicants serving areas with populations above 20,000 but not more than 1 million shall agree to make available non-federal funds equal to not less than 10 percent of the total project cost.

- Applicants that serve populations of 20,000 or less must match the federal grant funds with an amount of non-federal funds equal to 5 percent of the total project cost.

The cost share of state fire training academies and joint/regional projects will be based on the entire state or

region, not the population of the host organization.

On a case by case basis, FEMA may allow grant recipient that already own assets (equipment or vehicles) to use the trade-in allowance/credit value of those assets as “cash” for the purpose of meeting the cost-share obligation of their AFG award. In-kind cost-share matches are not allowed.

Grant recipients under this grant program must also agree to a maintenance of effort requirement as required by 15 U.S.C. 2229(k)(3) (referred to as a “maintenance of expenditure” requirement in that statute). A grant recipient shall agree to maintain during the term of the grant the applicant’s aggregate expenditures relating to the activities allowable under the NOFO at not less than 80 percent of the average amount of such expenditures in the two fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and on the application of the grant recipient, the Administrator of FEMA may waive or reduce a grant recipient’s cost share requirement or maintenance of expenditure requirement. As required by statute, the Administrator of FEMA has established guidelines for determining what constitutes economic hardship and published these guidelines at FEMA’s Web site [www.fema.gov/grants](http://www.fema.gov/grants).

Prior to the start of the FY 2016 AFG application period, FEMA will conduct applicant workshops and/or Internet webinars to inform potential applicants about the AFG Program. In addition, FEMA will provide applicants with information at the AFG Web site [www.fema.gov/firegrants](http://www.fema.gov/firegrants) to help them prepare quality grant applications. The AFG Help Desk will be staffed throughout the application period to assist applicants with the automated application process as well as assistance with any questions they have. Applicants can reach the AFG Help Desk through a toll-free telephone number (1-866-274-0960) or electronic mail [firegrants@dhs.gov](mailto:firegrants@dhs.gov).

#### Application Process

Organizations may submit one application per application period in each of the three AFG Program areas, e.g., one application for Operations and Safety, one for Vehicle Acquisition, and/or a separate application to be a Joint/Regional Project host. If an organization submits more than one application for any single AFG Program area, e.g., two applications for Operations and Safety, two for Vehicles, etc.; either intentionally or

unintentionally, FEMA will deem all applications submitted by that organization for the particular program to be ineligible for funding.

Applicants will be advised to access the application electronically at <https://portal.fema.gov>. The application will also be accessible from the U.S. Fire Administration’s Web site <http://www.usfa.fema.gov> and <http://www.grants.gov>. New applicants will be required to register and establish a username and password for secure access to their application. Applicants that applied for any previous AFG funding opportunities will be required to use their previously established usernames and passwords.

In completing the application, applicants will be asked to provide relevant information on their organization’s characteristics, call volume, and existing capabilities. Applicants will be asked to answer questions about their grant request that reflect the AFG funding priorities, which are described below. In addition, each applicant must complete four separate narratives for each project or grant activity requested.

#### System for Award Management (SAM)

In 2012, the SAM replaced the Central Contractor Registry (CCR). Per 2 CFR 25.200, all grant applicants and recipients are now required to register in <https://SAM.gov>, which is available free of charge. They must maintain validated information in SAM that is consistent with the data provided in their AFG grant application and in the Dun & Bradstreet (DUNS) database. FEMA will not accept any application, process any awards, consider any payment or amendment requests, or consider any amendment until the applicant or grant recipient has complied with the requirements to provide a valid DUNS number and an active SAM registration with current information. The banking information, employer identification number (EIN), organization/entity name, address, and DUNS number provided in the application must match the information that provided in SAM.

#### Criteria Development Panel (CDP) Recommendations

FEMA must explain any differences between the published guidelines and the recommendations made by the CDP and publish this information in the **Federal Register** prior to making any grants under the AFG Program. For FY 2016, FEMA accepted and is implementing all of the CDP’s recommendations for the prioritization of eligible activities. The CDP discussed

the current funding available for the Fire Prevention and Safety grants and recommended to increase the available funding from 10% to 15% of the overall appropriated amount. FEMA was unable to accept that recommendation due to existing statutory language that outlines the eligible use of funds for AFG awards.

#### Adopted Recommendations for FY 2016

##### *Wellness and Fitness Micro Grants*

Priority 1 Wellness and Fitness activities are now eligible when applying for a Micro Grant.

##### *Change to Complete Set of PPE Definition*

AFG will now consider a complete set of PPE to include two sets of gloves and two hoods.

##### *Equipment Product Lifecycles*

Equipment will now be scored using an additional variable of "Age Category." Equipment is assigned an age category of Short (5–7 years), Medium (8–14 years), or Long (15–20 years). These age categories are used to compare like types of equipment. Under this system, an item that should have a useful life of 10 years is only competing against other items that have a similar lifecycle. An application does not score higher or lower based on the product lifecycle of an item. It only serves to ensure a more even scoring of equipment based on type.

##### *Tow Vehicles*

Tow vehicles are now listed under a separate chart in the equipment section to clarify the priority levels between application types.

Dated: October 6, 2016.

**W. Craig Fugate,**  
Administrator, Federal Emergency  
Management Agency.

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## DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0108]

RIN 1601–ZA11

### Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Notice.

**SUMMARY:** Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration

Services (USCIS) may generally only approve petitions for H–2A and H–2B nonimmigrant status on behalf of nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. That notice must be renewed each year. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 85 countries whose nationals are eligible to participate in the H–2A program and 84 countries whose nationals are eligible to participate in the H–2B program for the coming year.

**DATES:** *Effective Date:* The designation of these countries is effective January 18, 2017, and shall be without effect at the end of one year after January 18, 2017.

**FOR FURTHER INFORMATION CONTACT:** Timothy Simmons, Office of Policy, Department of Homeland Security, Washington, DC 20528, (202) 447–4216.

**SUPPLEMENTARY INFORMATION:** *Background:* Generally, USCIS may approve H–2A and H–2B petitions filed on behalf of nationals of only those countries<sup>1</sup> that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be published as a notice in the **Federal Register** and expires after one year. USCIS, however, may allow a national from a country not on the list to be named as a beneficiary of an H–2A or H–2B petition based on a determination that such participation is in the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F) and 8 CFR 214.2(h)(6)(i)(E).

In designating countries to include on the list, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) The country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and

<sup>1</sup> With respect to all references to "country" or "countries" in this document, it should be noted that the Taiwan Relations Act of 1979, Public Law 96–8, Section 4(b)(1), provides that "[w]henver the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan." 22 U.S.C. 3303(b)(1). Accordingly, all references to "country" or "countries" in the regulations governing whether nationals of a country are eligible for H–2 program participation, 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1). Examples of factors serving the U.S. interest that could result in the non-inclusion of a country or the removal of a country from the list include, but are not limited to, fraud, abuse, and non-compliance with the terms and conditions of the H–2 programs by nationals of that country.

In December 2008, DHS published in the **Federal Register** two notices, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2A Visa Program," and "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2B Visa Program," which designated 28 countries whose nationals are eligible to participate in the H–2A and H–2B programs. *See* 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2010 and January 18, 2010, respectively. *See* 8 CFR 214.2(h)(5)(i)(F)(2) and 8 CFR 214.2(h)(6)(i)(E)(3). In implementing these regulatory provisions, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has published a series of notices on a regular basis. *See* 75 FR 2879 (Jan. 19, 2010) (adding 11 countries); 76 FR 2915 (Jan. 18, 2011) (removing Indonesia and adding 15 countries); 77 FR 2558 (Jan. 18, 2012) (adding 5 countries); 78 FR 4154 (Jan. 18, 2013) (adding 1 country); 79 FR 3214 (Jan. 17, 2014) (adding 4 countries); 79 FR 74735 (Dec. 16, 2014) (adding 5 countries); 80 FR 72079 (Nov. 18, 2015) (removing Moldova from the H–2B program and adding 16 countries).

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 84 countries previously designated in the November 18, 2015 notice continue to meet the standards identified in that notice for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H–2A program. Additionally, the Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 83 countries previously designated in the November 18, 2015 notice continue to meet the standards identified in that notice for eligible countries and therefore should