

PART 400—911 GRANT PROGRAM

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AUTHORITY: 47 U.S.C. 942.

SOURCE: 83 FR 38059, Aug. 3, 2018, unless otherwise noted.

§ 400.1 Purpose.

This part establishes uniform application, approval, award, financial and administrative requirements for the grant program authorized under the “Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004” (ENHANCE 911 Act), as amended by the “Next Generation 911 Advancement Act of 2012” (NG911 Advancement Act).

§ 400.2 Definitions.

As used in this part—

911 Coordinator means a single officer or governmental body of the State in which the applicant is located that is responsible for coordinating implementation of 911 services in that State.

911 services means both E-911 services and Next Generation 911 services.

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

Assistant Secretary means the Assistant Secretary for Communications and Information, U.S. Department of Commerce, and Administrator of the National Telecommunications and Information Administration (NTIA).

Designated 911 charges means any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve 911, E-911 or NG911 services.

E-911 services means both phase I and phase II enhanced 911 services, as described in §20.18 of this title, as subsequently revised.

Emergency call refers to any real-time communication with a public safety answering point or other emergency management or response agency, including—

(1) Through voice, text, or video and related data; and

(2) Nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

ICO means the 911 Implementation Coordination Office established under 47 U.S.C. 942 for the administration of the 911 grant program, located at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, NTI-140, Washington, DC 20590.

Integrated telecommunications services means one or more elements of the provision of multiple 911 systems’ or PSAPs’ infrastructure, equipment, or utilities, such as voice, data, image, graphics, and video network, customer premises equipment (such as consoles, hardware, or software), or other utilities, which make common use of all or part of the same transmission facilities, switches, signaling, or control devices (e.g., database, cybersecurity).

IP-enabled emergency network or IP-enabled emergency system means an emergency communications network or system based on a secured infrastructure that allows secured transmission of information, using internet Protocol, among users of the network or system.

Next Generation 911 services means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

(1) Provides standardized interfaces from emergency call and message services to support emergency communications;

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(2) Processes all types of emergency calls, including voice, data, and multimedia information;

(3) Acquires and integrates additional emergency call data useful to call routing and handling;

(4) Delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(5) Supports data or video communications needs for coordinated incident response and management; and

(6) Provides broadband service to public safety answering points or other first responder entities.

PSAP means a public safety answering point, a facility that has been designated to receive emergency calls and route them to emergency service personnel.

State means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

Tribal Organization means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

§ 400.3 Who may apply.

In order to apply for a grant under this part, an applicant must be a State or Tribal Organization as defined in § 400.2.

§ 400.4 Application requirements.

(a) *Contents for a State application.* An application for funds for the 911 Grant Program from a State must consist of the following components:

(1) *State 911 plan.* A plan that—

(i) Details the projects and activities proposed to be funded for:

(A) The implementation and operation of 911 services, E-911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(B) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

(C) Training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

(ii) Establishes metrics and a time table for grant implementation; and

(iii) Describes the steps the applicant has taken to—

(A) Coordinate its application with local governments, Tribal Organizations, and PSAPs within the State;

(B) Ensure that at least 90 percent of the grant funds will be used for the direct benefit of PSAPs and not more than 10 percent of the grant funds will be used for the applicant's administrative expenses related to the 911 Grant Program; and

(C) Involve integrated telecommunications services in the implementation and delivery of 911 services, E-911 services, and Next Generation 911 services.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds. Specifically, for each project or activity, the applicant must:

(i) Demonstrate that the project or activity meets the eligible use requirement in § 400.7; and

(ii) Identify the non-Federal sources, which meet the requirements of 2 CFR 200.306, that will fund at least 40 percent of the cost; except that as provided in 48 U.S.C. 1469a, the requirement for non-Federal matching funds (including in-kind contributions) is waived for American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands for grant amounts up to \$200,000.

(3) *Supplemental project budget.* States that qualify for a grant under the program may also qualify for additional grant funds that may become available. To be eligible for any such additional grant funds that may become available in accordance with § 400.6, a State must submit, with its application, a supplemental project budget that identifies the maximum dollar amount the State is able to match from non-Federal sources meeting the requirements of 2 CFR 200.306, and includes projects or activities for those grant and matching amounts, up to the total amount in the project budget submitted under paragraph (a)(2) of this section. This information must be provided to the same level of detail as required under paragraph (a)(2) of this section and be consistent with the State 911 Plan required under paragraph (a)(1) of this section.

(4) *Designated 911 Coordinator.* The identification of a single officer or government body to serve as the 911 Coordinator of implementation of 911 services and to sign the certifications required under this part. Such designation need not vest such coordinator with legal authority to implement 911 services, E-911 services, or Next Generation 911 services or to manage emergency communications operations. If a State applicant has established by law or regulation an office or coordinator with the authority to manage 911 services, that office or coordinator must be identified as the designated 911 Coordinator and apply for the grant on behalf of the State. If a State applicant does not have such an office or coordinator established, the Governor of the State must appoint a single officer or governmental body to serve as the 911 Coordinator in order to qualify for a 911 grant. If the designated 911 Coordinator is a governmental body, an official representative of the governmental body shall be identified to sign the certifications for the 911 Coordinator. The State must notify NHTSA in writing within 30 days of any change in appointment of the 911 Coordinator.

(5) *Certifications.* The certification in Appendix A of this part, signed by the 911 Coordinator, certifying that the applicant has complied with the required statutory and programmatic condi-

tions in submitting its application. The applicant must certify that during the time period 180 days immediately preceding the date of the initial application, the State has not diverted any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented, that no taxing jurisdiction in the State that will be a recipient of 911 grant funds has diverted any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated or presented, and that, continuing through the time period during which grant funds are available, neither the State nor any taxing jurisdiction in the State that is a recipient of 911 grant funds will divert designated 911 charges for any purpose other than the purposes for which such charges are designated or presented.

(b) *Contents for a Tribal Organization application.* An application for funds for the 911 Grant Program from a Tribal Organization must consist of the following components:

(1) Tribal Organization 911 Plan. A plan that—

(i) Details the projects and activities proposed to be funded for:

(A) The implementation and operation of 911 services, E-911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(B) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

(C) Training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

(ii) Establishes metrics and a time table for grant implementation; and

(iii) Describes the steps the applicant has taken to—

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(A) Coordinate its application with PSAPs within the Tribal Organization's jurisdiction;

(B) Ensure that at least 90 percent of the grant funds will be used for the direct benefit of PSAPs and not more than 10 percent of the grant funds will be used for the applicant's administrative expenses related to the 911 Grant Program; and

(C) Involve integrated telecommunications services in the implementation and delivery of 911 services, E-911 services, and Next Generation 911 services.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds. Specifically, for each project or activity, the applicant must:

(i) Demonstrate that the project or activity meets the eligible use requirement in § 400.7; and

(ii) Identify the allowable sources, which meet the requirements of 2 CFR 200.306, that will fund at least 40 percent of the cost.

(3) *Supplemental project budget.* Tribal Organizations that qualify for a grant under the program may also qualify for additional grant funds that may become available. To be eligible for any such additional grant funds that may become available in accordance with § 400.6, a Tribal Organization must submit, with its application, a supplemental project budget that identifies the maximum dollar amount the Tribal Organization is able to match from allowable sources meeting the requirements of 2 CFR 200.306, and includes projects or activities for those grant and matching amounts, up to the total amount in the project budget submitted under paragraph (b)(2) of this section. This information must be provided to the same level of detail as required under paragraph (b)(2) of this section and be consistent with the Tribal Organization 911 Plan required under paragraph (b)(1) of this section.

(4) *Designated 911 Coordinator.* (i) Written identification of the single State officer or government body serving as the 911 Coordinator of implementation of 911 services in the State (or States) in which the Tribal Organization is located. If a State has not designated an officer or government body to coordinate such services, the Gov-

ernor of the State must appoint a single officer or governmental body to serve as the 911 Coordinator in order for the Tribal Organization to qualify for a 911 grant. The Tribal Organization must notify NHTSA in writing within 30 days of any change in appointment of the 911 Coordinator.

(ii) *Responsible Tribal Organization Official.* Written identification of the official responsible for executing the grant agreement and signing the required certifications on behalf of the Tribal Organization.

(5) *Certifications.* The certification in Appendix B of this part, signed by the responsible official of the Tribal Organization, certifying that the applicant has complied with the required statutory and programmatic conditions in submitting its application. The applicant must certify that during the time period 180 days immediately preceding the date of the initial application, the taxing jurisdiction (or jurisdictions) within which the applicant is located has not diverted any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the applicant is located for any purpose other than the purposes for which such charges are designated or presented and that, continuing through the time period during which grant funds are available, the taxing jurisdiction (or jurisdictions) within which the applicant is located will not divert designated 911 charges for any purpose other than the purposes for which such charges are designated or presented.

(c) *Due dates—(1) Initial application deadline.* The applicant must submit the certification set forth in Appendix A of this part if a State, or Appendix B of this part if a Tribal Organization, no later than the initial application deadline published in the Notice of Funding Opportunity. Failure to meet this deadline will preclude the applicant from receiving consideration for a 911 grant award.

(2) *Final application deadline.* After publication of the funding allocation for the 911 Grant Program in a revision to the Funding Opportunity, applicants that have complied with paragraph

(c)(1) of this section will be given additional time in which to submit remaining application documents in compliance with this section, including a supplemental project budget. The revision to the Notice of Funding Opportunity will provide such deadline information. Failure to meet this deadline will preclude the applicant from receiving consideration for a 911 grant award.

[83 FR 38059, Aug. 3, 2018, as amended at 83 FR 40156, Aug. 14, 2018]

§ 400.5 Approval and award.

(a) The ICO will review each application for compliance with the requirements of this part.

(b) The ICO may request additional information from the applicant, with respect to any of the application submission requirements of § 400.4, prior to making a recommendation for an award. Failure to submit such additional information may preclude the applicant from further consideration for award.

(c) The Administrator and Assistant Secretary will jointly approve and announce, in writing, grant awards to qualifying applicants.

§ 400.6 Distribution of grant funds.

(a) *Funding allocation.* Except as provided in paragraph (b) of this section—

(1) Grant funds for each State that meets the certification requirements set forth in § 400.4 will be allocated—

(i) 50 percent in the ratio which the population of the State bears to the total population of all the States, as shown by the latest available Federal census; and

(ii) 50 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States, as shown by the latest available Federal Highway Administration data.

(2) Grant funds for each Tribal Organization that meets the certification requirements set forth in § 400.4 will be allocated—

(i) 50 percent in the ratio to which the population of the Tribal Organization bears to the total population of all Tribal Organizations, as determined by the most recent population data on American Indian/Alaska Native Reservation of Statistical Area; and

(ii) 50 percent in the ratio which the public road mileage in each Tribal Organization bears to the total public road mileage in tribal areas, using the most recent national tribal transportation facility inventory data.

(3) *Supplemental project budgets.* As set forth in § 400.4(a)(3) and (b)(3), the ICO reserves the right to allocate additional funds based on supplemental project budgets.

(b)(1) *Minimum distribution.* The distribution to each qualifying State under paragraph (b) of this section shall not be less than \$500,000, except that the distribution to American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands shall not be less than \$250,000.

(2) *Tribal Organization set-aside.* Up to 2 percent of grant funds available under this part will be set aside for distribution to qualifying Tribal Organizations for a 911 grant. The distribution to each qualifying Tribal Organization shall not be more than \$250,000. Any remaining funds after distribution to qualifying Tribal Organizations under this subparagraph will be released for distribution to the States consistent with paragraph (a) of this section.

(c) *Additional notices of funding opportunity.* Grant funds that are not distributed under paragraph (a) of this section may be made available to States and Tribal Organizations through subsequent Notices of Funding Opportunity.

[83 FR 38059, Aug. 3, 2018, as amended at 83 FR 40156, Aug. 14, 2018]

§ 400.7 Eligible uses for grant funds.

Grant funds awarded under this part may be used only for:

(a) The implementation and operation of 911 services, E-911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(b) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

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(c) 911-related training of public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

§ 400.8 Continuing compliance.

(a) A grant recipient must submit on an annual basis 30 days after the end of each fiscal year during which grant funds are available, the certification set forth in Appendix C of this part if a State, or Appendix D of this part if a Tribal Organization, making the same certification concerning the diversion of designated 911 charges.

(b) In accordance with 47 U.S.C. 942(c), where a recipient knowingly provides false or inaccurate information in its certification related to the diversion of designated 911 charges, the recipient shall—

(1) Not be eligible to receive the grant under this part;

(2) Return any grant awarded under this part during the time that the certification was not valid; and

(3) Not be eligible to receive any subsequent grants under this part.

§ 400.9 Financial and administrative requirements.

(a) *General.* The requirements of 2 CFR part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including applicable cost principles referenced at subpart E, govern the implementation and management of grants awarded under this part.

(b) *Reporting requirements*—(1) *Performance reports.* Each grant recipient shall submit an annual performance report to NHTSA, following the procedures of 2 CFR 200.328, within 90 days after each fiscal year that grant funds are available, except when a final report is required under § 400.10(b)(2).

(2) *Financial reports.* Each recipient shall submit quarterly financial re-

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ports to NHTSA, following the procedures of 2 CFR 200.327, within 30 days after each fiscal quarter that grant funds are available, except when a final voucher is required under § 400.10(b)(1).

§ 400.10 Closeout.

(a) *Expiration of the right to incur costs.* The right to incur costs under this part will expire as of the end of the period of performance. The grant recipient and its subrecipients and contractors may not incur costs for Federal reimbursement past the expiration date.

(b) *Final submissions.* Within 90 days after the completion of projects and activities funded under this part, but in no event later than the expiration date identified in paragraph (a) of this section, each grant recipient must submit—

(1) A final voucher for the costs incurred. The final voucher constitutes the final financial reconciliation for the grant award.

(2) A final report to NHTSA, following the procedures of 2 CFR 200.343(a).

(c) *Disposition of unexpended balances.* Any funds that remain unexpended after closeout shall cease to be available to the recipient and shall be returned to the government.

§ 400.11 Waiver authority.

It is the general intent of the ICO not to waive any of the provisions set forth in this part. However, under extraordinary circumstances and when it is in the best interest of the federal government, the ICO, upon its own initiative or when requested, may waive the provisions in this part. Waivers may only be granted for requirements that are discretionary and not mandated by statute or other applicable law. Any request for a waiver must set forth the extraordinary circumstances for the request.

Appendix A To Part 400 –

Initial Certification For 911 Grant Applicants – States

(To be submitted as part of the initial application)

I. On behalf of [State/Territory], I, [print name], hereby certify that:

(check **only one** box below)

- [State or Territory] has established by law or regulation [name of 911 office/coordinator] with the authority to manage 911 services in the State, and I am its representative. See [citation to State law or rule]. [Name of 911 office/coordinator] will serve as the designated 911 Coordinator.
- [State or Territory] does not have an office or coordinator with the authority to manage 911 services, and the Governor of [State or Territory] has designated

(check **only one** circle below)

- me as the State’s single officer to serve as the 911 Coordinator of 911 services implementation; or
- [governmental body] as the State’s single governmental body, to serve as the 911 Coordinator of 911 services implementation, and I am its representative.

(check **all** boxes below)

- The State has coordinated the application with local governments, Tribal Organizations and PSAPs within the State.
- The State has established a State 911 Plan, consistent with the implementing regulations, for the coordination and implementation of 911 services, E-911 services, and Next Generation 911 services.
- The State will ensure that at least 90 percent of the grant funds are used for the direct benefit of PSAPs.
- The State has integrated telecommunications services involved in the implementation and delivery of 911 services, E-911 services, and Next Generation 911 services.

II. I further certify that the State has not diverted and will not divert any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive 911 grant funds has diverted any portion of the designated 911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E-911 services, or Next Generation 911 services, and that if a taxing jurisdiction in the State that receives 911 grant funds diverts any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that 911 grant funds distributed to that taxing jurisdiction are returned.

III. I further certify that the State will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

Signature of State 911 Coordinator
(or representative of single governmental body)

Title

Date

Appendix B To Part 400 –

Initial Certification For 911 Grant Applicants – Tribal Organizations

(To be submitted as part of the initial application)

I. On behalf of [*Tribal Organization*], I, [*print name*], hereby certify that:

(check **all** boxes below)

- The Tribal Organization has coordinated the application with PSAPs within its jurisdiction.
 - The Tribal Organization has established a 911 Plan, consistent with the implementing regulations, for the coordination and implementation of 911 services, E-911 services, and Next Generation 911 services.
 - The Tribal Organization will ensure that at least 90 percent of the grant funds are used for the direct benefit of PSAPs.
 - The Tribal Organization has integrated telecommunications services involved in the implementation and delivery of 911 services, E-911 services, and Next Generation 911 services.
- II. I further certify that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located has not diverted and will not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.
- III. I agree that, as a condition of receipt of the grant, the Tribal Organization will return all grant funds if the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E-911 services, or Next Generation 911 services.
- IV. I further certify that the Tribal Organization will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

V. The single State officer or government body serving as the 911 Coordinator of implementation of 911 services in each State in which the Tribal Organization is located is _____.

Signature of Responsible Official

Title

Date

Appendix C To Part 400 –

Annual Certification For 911 Grant Recipients – States

(To be submitted annually after grant award while grant funds are available)

On behalf of [*State/Territory*], I, [*print name*], hereby certify that the State has not diverted any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing throughout the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive 911 grant funds has diverted any portion of the designated 911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E-911 services, or Next Generation 911 services, and that if a taxing jurisdiction in the State that receives 911 grant funds diverts any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that 911 grant funds distributed to that taxing jurisdiction are returned.

Signature of State 911 Coordinator
(or representative of single governmental body)

Title

Date

Appendix D To Part 400 –

Annual Certification For 911 Grant Recipients – Tribal Organizations

(To be submitted annually after grant award while grant funds are available)

On behalf of [*Tribal Organization*], I, [*print name*], hereby certify that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located has not diverted and will not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.

I further certify that the Tribal Organization will ensure that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the Tribal Organization will return all grant funds if the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E-911 services, or Next Generation 911 services.

Signature of Responsible Official

Title

Date

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