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TO: Mayor Emily Dean and Helena City Commissioners
FROM: Becky Dockter, City Attorney
DATE: September 14, 2026; updated November 2, 2026
RE: Montana Disaster and Emergency Services - Homeland Security Program Grant Award

Purpose: This memo is written for the purpose of responding to concerns raised by members of the public about the acceptance of the Montana Disaster and Emergency Services-Homeland Security Program grants on the agenda for November 9, 2026 and to recommend approval of the grants.

Procedural Background: On September 14, 2026, the Helena City Commission considered acceptance of a State Homeland Security Grant Award of $53,000. During the meeting, the Commission heard the City present that this funding would be used for installation of security cameras at the City/County Administrative Building public entrances, the court room and lobby spaces for Municipal Court, as well as the replacement of non-compliant cameras in public spaces at the Law and Justice Center. The grant award was tabled for a future meeting.

During the September 14, 2026 Commission meeting, Commissioners requested information about other counties/cities that accepted or denied a grant award from the same federal program.

Since then, the City of Helena has been awarded two other grants from the same program. One grant award is for the Helena Police Department to fund the "Montana Analysis and Technical Information Center (MATIC) – Fusion Center" for an "Information Liaison Officer" for $125,000.00. The other one is for "HazMat Sustainment (2 Year POP)" for $80,000.00. All three of these grants are awarded under the FY 2025 State Homeland Security Grant Funding and subject to the same federal grant conditions administered through the State Disaster and Emergency Services (DES) as the State agency responsible for administering the terms of the grant.

During the October 28, 2026 administrative meeting, City Manager Lake requested and the Commission approved through consensus decision to take the matter off the table and consider it at the November 9, 2026 City Commission meeting.

The following memoranda is intended to address issues raised by some members of the public before, during, and after the September 14, 2026 meeting. Further, the memoranda below provides information regarding collaboration with the State DES and other cities and counties who considered grants under the same program.

Analysis:
The language of the grant conditions does not present new or additional requirements for compliance. Even if the City determines it cannot comply with certain terms, the agreement addresses exceptions for resource limitations and provisions allowing termination if grant conditions cannot be met.

During the September 14, 2026 meeting, members of the public raised concerns regarding grant conditions. They surmised that:

1. Conditions force cooperation with immigration enforcement;
2. Conditions lack clarity;
3. Judicial enforcement will force compliance by City of Helena;
4. The 30-day termination period requires compliance during the termination period;
5. Conditions place anti-discrimination and DEI programs in jeopardy.

These concerns are addressed in this memorandum and are quelled by the language of the grant conditions that are either unenforceable against the City, inapplicable, or allow an exception for City compliance.

In particular, **Article 11** entitled "Communication and Cooperation with the Department of Homeland Security and Immigration Officials" raised concerns about the requirement to cooperate with federal immigration operations. Similarly, **Article 19** entitled "Anti-Discrimination Grant Award Certification" raised concerns about DEI programs in the City. The language of Article 61 specifically reaches the question of whether Articles 11 and 19 are applicable. **They are not.**

Article 61 specifically excludes application of those two relevant articles to this grant award:

> **Article 61 State Homeland Security Program: Non-Applicability of Specific Terms and Agreement Articles**
> Notwithstanding their inclusion in this award package, the following terms and Agreement Articles *do not apply to this grant award*: (1) paragraph C.IX(Communication and Cooperation with the Department of Homeland Security and Immigration Officials) of the DHS Standard Terms and Conditions and the Agreement Article titled "Communication and Cooperation with the Department of Homeland Security and Immigration Officials" in this award package; and (2)paragraph C.XVII(2)(a)(iii) (Anti-Discrimination Grant Award Certification regarding immigration) of the DHS Standard Terms and Conditions and paragraph (2)(a)(iii)of the Agreement Article titled "Anti- Discrimination" in this award package. (Emphasis added.)

Both Articles 11 and 19 are not applicable to this award package.

Article 33 requires compliance with Presidential Executive Orders related to grants. This was raised as a concern because of the number of Executive Orders that have been adopted, amended, and rescinded at this time. It is not possible to track without great effort the Presidential Orders that apply at this time or at the time of compliance with the grant conditions. If compliance of this article, or any article, becomes mandatory in a way that is unacceptable by the City Commission, it may choose to terminate the grant pursuant to Article 42 termination clause. As a result, I am not concerned that the City will be held to obligations without recourse.

Article 60 contains several provisions, none of which raise concerns for the City of Helena.

Specifically, subsection 1, by its language, is not likely to occur in Helena as it is a violation of Montana law. Subsection 1 specifically prohibits other federal agencies, the Department of Homeland Security or the Department of Justice, from designating a local recipient as a sanctuary jurisdiction. Helena is not designated as a sanctuary jurisdiction and Title 2, Chapter 1, part 6 of Montana Code Annotated prohibits any city in Montana from being designated as a sanctuary jurisdiction in Montana. The City of Helena complies with this term.

Subsection 2 of Article 60 provides:

> 2. Certification a. The state, territorial or local recipient and subrecipients must certify under penalty of perjury pursuant to 28 U.S.C. §§ 1746, and using a form that is acceptable to the Department of Homeland Security, that they will comply with the following requirements related to coordination and cooperation with the Department of Homeland Security and immigration officials....

The first point worth noting is that certification is not required by the City of Helena. Certification paperwork was not a part of the grant application or packet and when City staff inquired of the Montana Department of Emergency Services (DES) (state agency responsible for administering the grant), personnel assured the City it will not require the certification contemplated by this Article 60, subsection 2. It is my opinion that without the certification, neither the State nor the federal government can enforce this provision against the City.

Even so, the City already complies with the language of the majority of subsection 2 where it requires compliance with federal statutes. The specific and cited statutes are those to which the City already complies. In particular, it mentions specific statutes for prohibiting restrictions on information sharing, prohibiting encouraging or inducing an alien to enter the U.S., prohibiting transporting or moving illegal aliens, or prohibiting harboring, concealing or shielding aliens from detection. These provisions all refer to federal laws in existence to which the City is already required to comply. See Article 60, Subsections 2.(i) and 2(ii).

FInally, the concern that the City could be required to participate in immigration enforcement activities beyond its authority is addressed by the provision allowing the City to decline cooperation when it lacks the necessary resources. In particular, Article 60, subsection 2(iii) requires:

> They will honor requests for cooperation, such as participating in joint operations, sharing of information, or request for short term detention of an alien pursuant to a valid detainer. A jurisdiction does not fail to comply with the requirement merely because it lacks the necessary resources to assist in a particular instance.

The City is not required to certify compliance with this provision, and the grant conditions expressly allow the City to decline compliance when it lacks the necessary resources. This Commission has heard over the past year that the Helena Police Department lacks resources, as well as authority and plans, to conduct immigration actions beyond what is required by state and federal law. The City's operations have remained unchanged despite previously accepting grants with similar conditions, and there is no indication that accepting these awards would

result in a different outcome. HPD is not legally authorized to do federal immigration work and this grant condition does not grant that authority to the HPD to do so. If HPD is requested to cooperate in a joint operation, it would decide whether to do so based upon local, state, and federal law, not this grant condition.

Moreover, the final sentence of Article 60 provides that while the terms and conditions are material to the grant of award, the remedy for noncompliance is termination of the grant award. The concerns about judicial enforcement or some other requirement for specific performance of this grant condition are misplaced. The likely consequence, and the only one expressly authorized under the grant terms, would be repayment of the grant funds.

The termination clause for this grant award supports acceptance of the grant award in that it limits any impact to the City. **Article 42** specifically allows the City to terminate the award, in whole or in part, simply by sending written notification to DHS stating the reasons for termination. The only requirement for termination is that notice is provided at least 30 days prior to termination. DHS may also terminate the award if the recipient fails to comply with the terms and conditions of the federal award, but there is no language providing for a penalty for noncompliance.

The Montana DES personnel are the sole enforcement arm of the state for these grant awards. They have confirmed that when a grantee submits notice of termination because it can no longer comply with the terms of grant conditions, DES personnel will collaborate with the City for a termination date and compliance with termination provisions. Concerns were raised that the 30-day notice provision would require the city to comply with terms of the grant conditions for 30 days while termination was finalized. DES personnel confirmed this is not the case given that the City had already indicated its inability to comply. In addition, DES officials indicated it generally takes a day or a few days to terminate (not 30 days) and do not require specific enforcement of the terms during that time.

All grant funding received must be utilized only for the purposes in which it was applied and awarded.

Conclusion: For the reasons stated above, I recommend acceptance of this grant award.

The majority of cities and counties across the state have accepted this grant award. I have collaborated with City and County Attorneys from Lewis and Clark County, Missoula County, City of Missoula, City of Great Falls, City of Bozeman, City of Billings whom have all presented or will present the same or similar arguments to their respective government bodies and recommend acceptance of the grants. The following chart shows the grant acceptance across Montana. I recommend the City of Helena accept the grant awards.

FY2026 State Homeland Security Grant Program (SHSP)			
Date of Acceptance	Sub-Recipient	Project	Award Amount
Accepted	Missoula County OEM	Elections Emergency Portable Lights	$15,000.00
Accepted	Billings Police Department	Rook Armored Response Vehicle & Trailer	$495,000.00
Accepted	Billings Police Department	Regional Explosive Ordinance Disposal (EOD) Sustainment	$59,085.00
Accepted	Carter County DES	Public Info & Warning Message Boards	$63,000.00
Accepted	Cascade County Sheriff's Office	Intelligence and Crime Prevention Analyst	$150,000.00
	City of Billings, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
Accepted	City of Bozeman, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
Accepted	City of Columbia Falls	Generators for City Hall and Fire Department	$108,832.00
	City of Helena	City of Helena Critical Security Improvements	$53,326.00
Accepted	City of Great Falls, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
	City of Dillon	City Hall Security Upgrades	$70,740.00
	City of Helena, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
Accepted	City of Missoula, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
Accepted	City of Kalispell, Fire Dept.	HazMat Sustainment (2 year POP)	$80,000.00
Accepted	Daniels County DES	Scobey Siren System Upgrade	$78,900.00
Accepted	Gallatin County Office of Emergency Management	MT Mutual Aid (MAMA) - Law Enforcement Mutual Aid Coordinator	$170,400.00
Accepted	Gallatin County Office of Emergency Management	Incident Management - Situation Analyst Montana (SAM)	$80,000.00
Accepted	Golden Valley County DES	Golden Valley County Electrical Resiliency	$26,000.00
	Helena Police Department	MT Analysis & Technical Information Center (MATIC)	$125,000.00
Accepted	Laurel Police Department	Police Vehicle Mobile Data Terminals	$68,000.00
Accepted	Lewis & Clark County Sheriff's Office	Regional Explosive Ordinance Disposal (EOD) Sustainment	$30,000.00
Accepted	MACo	Cyber Security	$160,000.00
Accepted	Beaverhead County DES	Beaverhead County Courthouse Public Entry Security	$32,000.00
Accepted	Missoula County Sheriff's Office	Regional Explosive Ordinance Disposal (EOD) Sustainment	$27,700.00
Accepted	Missoula County Sheriff's Office	Regional Explosive Ordinance Disposal (EOD) Containment Vessel	$240,000.00
Accepted	MT Department of Corrections	MT Analysis & Technical Information Center (MATIC) - Analyst	$100,000.00
Accepted	MT Department of Justice	MT Analysis & Technical Information Center (MATIC) - Fusion Center	$420,000.00
Accepted	MT Department of Justice	Analyst & Software	$160,000.00
Accepted	Musselshell County DES	West Repeater Site Improvements	$450,000.00
Accepted	Park County	Data Center Cyber Updates	$80,650.00
Accepted	Prairie County DES	DES Specialized Pickup Truck	$80,000.00
Accepted	Teton County	Teton County Emergency Communication System	$301,567.00
Accepted	Toole County DES	Toole County EOP Update	$45,000.00

*Updated 10/19/2026

Helena Police Department – Immigration Enforcement FAQ

1. Does HPD participate in the 287(g) program?

No. The Helena Police Department does not participate in the 287(g) program and has no intention of doing so.

2. What is the 287(g) program?

The 287(g) program is a U.S. Immigration and Customs Enforcement (ICE) initiative that allows state and local law enforcement agencies to partner with ICE to enforce immigration laws. Participating officers may be deputized to perform immigration enforcement duties under ICE supervision. HPD is not part of this program.

3. What is HPD's policy on sharing data with ICE?

Under HPD Policy 415 – Immigration Violations:
- HPD may notify ICE if a detained individual is reasonably suspected of a criminal immigration violation.
- Individuals are not detained solely to determine immigration status.
- HPD generally does not notify ICE when someone is booked into the Lewis and Clark County Jail.
- In accordance with 8 U.S.C. § 1373, HPD cannot restrict the exchange of immigration status information with other government entities.

4. Does CJIN show immigration status?

No. When a person is run through the Criminal Justice Information Network (CJIN), immigration status is typically not shown. Officers receive personal identifiers, driving status, criminal history, and warrant information.

5. What is HPD's policy regarding ICE administrative warrants?

Per Policy 415.7.1:
- Individuals will not be held solely on a federal immigration detainer under 8 CFR 287.7, unless:
  - They are charged with a federal crime, or
  - The detainer includes a judicial warrant, affidavit of probable cause, or removal order.
  - HPD will notify the issuing the federal authority prior to release.

6. How does HPD handle ICE detainer requests and release notifications?

In accordance with § 27-16-801, MCA:
- HPD complies with lawful ICE detainer requests for individuals already in custody, unless credible evidence shows lawful status or U.S. citizenship.
- Individuals are informed if held under a federal immigration detainer.
- Detention under a detainer will not exceed 48 hours (excluding weekends and holidays) beyond the scheduled release time.

7. Has the City of Helena received federal funding tied to immigration enforcement?

No. The City of Helena has not received federal grant funding tied to immigration enforcement cooperation.

8. Does HPD collaborate with ICE or federal prosecutors on nonviolent undocumented cases?

HPD may provide records to federal prosecutors upon request, following standard interagency procedures.

9. Has HPD been listed in ICE cooperation reports or executive orders?

No. HPD has not been named in any ICE cooperation reports or executive orders and does not participate in the 287(g) program.

10. Are there sanctuary laws or policies in Helena?

No. The City of Helena and HPD do not have sanctuary laws or policies. These are prohibited in state law laid out in HB200 and codified in 2-1-602 MCA.

11. Does HPD assist in immigration enforcement without evidence of illegal activity?

No. HPD does not assist in immigration enforcement unless there is documentation of illegal activity.

12. Can ICE agents operate in Helena without identifying uniforms or vehicles?

Yes. Federal Law Enforcement may operate within city limits without identifiable uniforms or vehicles. However, HPD does not grant additional authority to federal agents.

13. Will HPD assist ICE in deceptive practices?

No. HPD does not participate in deceptive tactics or false pretenses.

14. Will HPD assist immigration officers on arrests or operations?

HPD will assist immigration officers if there is an immediate officer safety threat or threat to the public during immigration enforcement efforts.

15. Does HPD notify federal immigration officers if they have detained an illegal immigrant?

Yes, per MCA §46-5-401, the Helena Police Department shall make a report to federal immigration authorities if a person lawfully detained by Helena Police is not present in the country legally.