

# **HIDTA Program**

## **Policy and Budget Guidance**



**Executive Office of the President**  
**Office of National Drug Control Policy**

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## **TABLE OF CONTENTS**

- 1. PURPOSE AND AUTHORITY**
- 2. PROGRAM OVERVIEW**
- 3. MANAGEMENT STRUCTURE AND PROGRAM RESPONSIBILITIES**
- 4. COMPOSITION OF INITIATIVES**
- 5. INTELLIGENCE AND INFORMATION SHARING**
- 6. FINANCIAL MANAGEMENT**
- 7. TRAINING**
- 8. PROPERTY MANAGEMENT**
- 9. ANNUAL BUDGET SUBMISSION REQUIREMENTS**
- 10. PROGRAM PERFORMANCE**
- 11. PROGRAM REVIEW**

- |                     |  |
|---------------------|--|
| <b>APPENDIX I</b>   | <b>HIDTA PROGRAM AUTHORIZING STATUTE</b>           |
| <b>APPENDIX II</b>  | <b>PETITIONS FOR DESIGNATION - REGULATION</b>      |
| <b>APPENDIX III</b> | <b>METHAMPHETAMINE LAB REPORTING CERTIFICATION</b> |
| <b>APPENDIX IV</b>  | <b>GLOSSARY</b>                                    |
| <b>APPENDIX V</b>   | <b>FAPO RISK ASSESSMENT TOOL</b>                   |
| <b>APPENDIX VI</b>  | <b>AGA CONTRACTOR vs. SUBRECIPIENT CHECKLIST</b>   |
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## **1. PURPOSE AND AUTHORITY**

### **1.1 PURPOSE**

This document provides policy and budget guidance for the High Intensity Drug Trafficking Areas (HIDTA) program, a program administered by the Office of National Drug Control Policy (ONDCP). This document supersedes all previous versions of the HIDTA program Policy and Budget Guidance.<sup>1</sup> This document is only intended to provide additional context and background but does not supersede the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200.

### **1.2 SCOPE**

This Policy and Budget Guidance applies to all HIDTA participants. In addition, the Southwest Border HIDTA Organization Plan, instituted in September 2000, and the Southwest Border HIDTA Standard Operating Procedures and Policies of February 18, 2008, remain in effect and applicable to the Southwest Border HIDTA and its constituent Regions.

### **1.3 REVISIONS**

The Director of ONDCP, or the Director’s designated representative, is the sole authority for amending this document.

### **1.4 ADDITIONAL REQUIREMENTS**

A HIDTA Executive Board may establish additional requirements or place greater restrictions on activities within its area of responsibility as long as the requirements contained in this guidance are not reduced.

### **1.5 WAIVERS**

A HIDTA Executive Board may request that ONDCP waive requirements contained in this guidance. ONDCP will only consider waiver requests submitted in writing by a HIDTA Director. Legal requirements will not be waived. The waiver request must:

1. Identify the policy requirement for which the waiver is requested;
2. Explain why the policy requirement cannot be met;
3. Describe the impact if the waiver is not granted; and

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<sup>1</sup> Unless specifically noted otherwise, all references to “HIDTAs” include the 28 designated HIDTAs and the 5 regions of the Southwest Border HIDTA. Similarly, references to “HIDTA Directors” and “HIDTA Executive Boards” include the Directors and Executive Committees of the five Southwest Border HIDTA regions.

4. Demonstrate that the Executive Board has approved the waiver request.

The required program requirement waiver request form is posted on the National HIDTA Assistance Center (NHAC) website at: <http://www.nhac.org/>.

Waiver requests will be considered on a case-by-case basis. ONDCP will grant waivers only in extenuating circumstances and for limited duration, typically 1 year. The granting of a waiver in one instance does not guarantee similar waivers will be granted in the future.

#### **1.6 NONCOMPLIANCE**

Failure to comply with Federal statutes, regulations, the terms and conditions of the Federal award, or the requirements established in this document may result in a reduction or delay in funding or other appropriate action.

#### **1.7 AUTHORITY**

This HIDTA Program Policy and Budget Guidance is issued pursuant to authority granted the Director of ONDCP by the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469, Title III), which gives the Director of ONDCP the authority to coordinate funds management activities in the HIDTA program.

#### **1.8 EFFECTIVE DATE**

The effective date of this Policy and Budget Guidance is 10/1/2016.

Michael P. Botticelli  
Director  
Office of National Drug Control Policy

## **2. PROGRAM OVERVIEW**

### **2.1 STATUTORY AUTHORITY**

#### **2.1.1 Establishment**

The HIDTA program is established in ONDCP under the authority of Public Law 109-469, the “Office of National Drug Control Policy Reauthorization Act of 2006,” (“the ONDCP Reauthorization Act”).

#### **2.1.2 Purpose**

The purpose of the HIDTA program is to reduce drug trafficking and drug production in the United States by:

- Facilitating cooperation among Federal, state, local, and tribal law enforcement agencies, sharing of information, and implementing coordinated enforcement activities;
- Enhancing law enforcement intelligence sharing among Federal, state, local, and tribal law enforcement agencies;
- Providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and
- Supporting coordinated law enforcement strategies that maximize the use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

#### **2.1.3 Designation**

The Director of ONDCP may designate any specified area of the United States as a HIDTA, as described below:

- (1) In general —The ONDCP Director, in consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the governor of each applicable state, may designate any specified area of the United States as a HIDTA.
- (2) Activities —After making a designation under paragraph (1) and in order to provide Federal assistance to the area so designated, the ONDCP Director may—
  - a. obligate such sums as are appropriated for the program;
  - b. direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

- c. take any other action authorized under section 704 to provide increased Federal assistance to those areas; and
- d. coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with state, local, and tribal officials.

#### **2.1.4 Factors for Consideration**

In considering whether to designate an area as a HIDTA, the Director of ONDCP shall consider, in addition to such other criteria he considers to be appropriate, the extent to which:

1. The area is a significant center of illegal drug production, manufacturing, importation, or distribution;
2. State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;
3. Drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and
4. A significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

#### **2.1.5 Petition for Designation**

Appendix II contains a copy of the regulation published in the Federal Register on August 16, 2007, establishing the requirements and procedures for submitting a petition to designate an area as a HIDTA.

#### **2.1.6 Petitions for Removal of Designation**

As part of their annual assessment of the regional drug threat and strategy development, HIDTA Executive Boards shall review those areas in their region that are currently designated as part of the HIDTA to ensure that each area continues to meet the statutory requirements for such designation. This review is essential to prioritize resources to meet the constantly changing drug trafficking threat. Each HIDTA's strategy must indicate that this review has occurred and that designated counties continue to meet the statutory criteria for inclusion in the program.

Should an Executive Board determine that a designated area (county) no longer meets the statutory requirements for HIDTA designation, it shall submit a petition to ONDCP requesting that said designation be removed from the respective area. The petition should contain adequate information to support the removal of designation.

## **2.2 MISSION AND GOALS**

### **2.2.1 Program Mission**

The mission of the HIDTA program is to disrupt the market for illegal drugs in the United States in support the National Drug Control Strategy by assisting Federal, state, local, and tribal law enforcement entities participating in the HIDTA program to dismantle and disrupt drug trafficking organizations, with particular emphasis on drug trafficking regions that have harmful effects on other parts of the United States.

### **2.2.2 Program Goals**

The HIDTA program goals are as follows:

1. Disrupt the market for illegal drugs by dismantling or disrupting drug trafficking and money laundering organizations; and
2. Improve the efficiency and effectiveness of HIDTA initiatives.

## **2.3 PROGRAM DESCRIPTION**

### **2.3.1 Scope**

The HIDTA program provides funding resources to joint initiatives of Federal, state, local, and tribal agencies in each HIDTA designated area to carry out activities that address the specific drug threats of those areas.

### **2.3.2 Guidance and Direction**

At the national level, ONDCP provides policy direction and guidance and grant administration to the HIDTA program. ONDCP ensures the overall program policy is consistent with the National Drug Control Strategy; the program operates in an effective and efficient manner; and all HIDTA participants operate in compliance with legal requirements and program policy.

At the local level, governance is conducted by Executive Boards composed primarily of Federal, state, local, and tribal law enforcement leaders. A central feature of the HIDTA program is the discretion granted to these Executive Boards to design and implement initiatives that confront the specific drug trafficking threats found in their respective regions. Specifically, each HIDTA Executive Board assesses the drug trafficking threat in its defined area, develops a strategy to address that threat, designs initiatives to implement the strategy, and proposes funding needed to carry out the initiatives. This level of local control and discretion has ensured that each HIDTA Executive Board can tailor its strategy and initiatives closely to local threats and can respond quickly to changes in those threats as they are identified.

### **2.3.3 Nature of the HIDTA**

A HIDTA is a coalition of Federal, state, local, and tribal law enforcement agencies from a specific geographic area that have joined together to apply for and to receive Federal grants to address specific drug threats. A HIDTA does not possess its own law enforcement authority. The Federal, state, local, and tribal law enforcement agencies that form the HIDTA each have their own respective law enforcement authority under Federal, state, local, and tribal law. When Federal officers and local police jointly conduct a criminal investigation funded by the HIDTA, they are acting under the law enforcement authority vested in each of them by their specific agencies.

A HIDTA is not a Federal agency. Likewise, a HIDTA is not an agent of ONDCP, the Executive Office of the President (EOP), or any other Federal agency. Each HIDTA participant has a responsibility not to act in a way that implies or suggests that he/she is an agent or is otherwise acting on behalf of ONDCP or the EOP.

### **2.3.4 HIDTA Directors Committee**

The 28 HIDTAs are organized into 6 regions and have elected representatives from each region to serve on the HIDTA Directors Committee (HDC).

1. The HDC serves as a forum for the HIDTA Directors to discuss programmatic aims, policies, operations, and other issues affecting and/or pertaining to the HIDTA program.
2. The HDC provides a mechanism for HIDTA Directors to exchange information concerning HIDTA program policies and budget guidance, reporting requirements, and day-to-day management concerns, and facilitates timely identification of issues affecting multiple HIDTAs and/or regions.
3. The HDC may establish standing and ad hoc sub-committees to examine topical areas of interest and specific issues requiring HDC resolution or implementation.
4. The HDC provides oversight to the NHAC. ONDCP defers to the HDC to develop the appropriate oversight structure.
5. The HDC facilitates sharing of information and open communication with ONDCP on all matters of mutual interest related to management of the HIDTA program.
6. At the request of ONDCP, selected members may represent the HIDTA program through service on interagency committees, boards, and other bodies.

### **2.3.5 Features of the HIDTA program**

The HIDTA program serves as a coordination umbrella for Federal, state, local, and tribal law enforcement agencies in designated areas, enabling them to combine and leverage resources and capabilities to address drug trafficking and drug-related crime.

The HIDTA program provides resources, facilitates and enhances coordination of participating agencies' drug control efforts, and improves communication between these agencies. HIDTA program funds enhance and promote regional strategies. The HIDTA program is regionally-based, locally managed, and tied to a national mission.

Under the control and direction of the HIDTA Executive Boards, participating agencies work together to implement the Boards' strategies. Although they may have different missions, participating agencies share the same objective of reducing drug trafficking and its harmful consequences. As each agency adds its expertise, new ideas and innovative approaches create opportunities for new inroads in counterdrug activities.

The interaction of Federal, state, local, and tribal representatives on the Executive Boards is continued at the operational level. HIDTA-funded enforcement initiatives are collocated and jointly-staffed law enforcement task forces led by a local, state, tribal, or Federal agency. These multi-agency initiatives carry out the investigative, interdiction, and prosecution activities to implement the Board's Strategy in their region.

The HIDTA program emphasizes sharing. Intelligence and information sharing is viewed with such importance that a standing HIDTA Intelligence and Information Sharing Committee, comprising selected HIDTA Directors, works to develop intelligence and information sharing policies. Each Executive Board must develop at least one primary intelligence and information sharing initiative or investigative support center (ISC). The ISC is designed to develop intelligence, share information, and provide analytical and technical support to the enforcement initiatives. Ancillary intelligence and information sharing initiatives, where applicable, can be used to augment the ISC's work. The ISC is staffed by representatives of participating agencies who have direct onsite access to their agencies' information databases. The HIDTA program's emphasis on information sharing goes beyond HIDTA initiatives: HIDTA participants are encouraged to share their threat assessments, deconfliction processes, and criminal intelligence with any appropriate agency. The sharing of information with agencies participating in other regional HIDTA programs also is encouraged.

HIDTA program funds are invested in training and related activities. Training makes a significant contribution to drug law enforcement, treatment, and prevention initiatives, and it is made available not only to agencies participating in the HIDTA program, but also to all law enforcement agencies in the respective regions.

In addition, HIDTAs support drug treatment and prevention activities to the extent authorized by statute. These activities, while using a relatively small portion of HIDTA funds, constitute a significant part of those individual HIDTAs' strategies. ONDCP is currently expanding the prevention aspect of the HIDTA program. Each Executive Board is encouraged to develop a prevention initiative that will increase collaboration between HIDTA law enforcement initiatives and the demand reduction and/or public health community. All HIDTAs are encouraged to engage community-based coalitions (e.g. DFCs), prevention programs, and/or public health stakeholders to ensure evidence-based prevention activities, strategies, and/or programming are implemented in the community.

The HIDTA program emphasizes performance and accountability. Each Executive

Board’s annual strategy includes both standardized and individualized performance measures. ONDCP will annually assess performance against targets established at the beginning of each program year using these measures as reported through the HIDTA Performance Management Process (PMP). Accountability is ensured through internal reviews, reviews by ONDCP, and external performance and financial audits. Results of these assessments are considered when determining future funding levels.

### **2.3.6 The National HIDTA Assistance Center**

The NHAC supports the National HIDTA program by providing direct assistance to all HIDTAs and their participating agencies and by undertaking financial services, such as processing state, local, and tribal grants, to assist ONDCP in the administration of the HIDTA program. The NHAC also coordinates regional and national meetings and conferences and oversees national coordination projects. In addition, the NHAC provides administrative support and oversight for the following national initiatives:

1. The Domestic Highway Enforcement (DHE) program provides assistance to the HIDTAs with market disruption through a coordinated nationwide highway enforcement strategy;
2. The National Marijuana Initiative (NMI) is a law enforcement support initiative whose mission is to improve the capabilities of the regional HIDTA programs in carrying out the National Drug Control Strategy objectives of disrupting domestic trafficking and production of and reducing demand for marijuana and derivative products;
3. The National Emerging Threat Initiative (NETI) is a poly-drug national trends, intelligence, and best practices-sharing initiative that addresses all aspects of the illegal drug supply, including the diversion of legal drugs;
4. The National Training Initiative, which coordinates training and provides and facilitates specialized training to regional HIDTAs and participating agencies; and
5. The National Multimedia Initiative, which provides video and graphic services to the HIDTA program.

The HDC provides oversight of the NHAC.

### **3. MANAGEMENT STRUCTURE AND PROGRAM RESPONSIBILITIES**

#### **3.1 PURPOSE**

This section describes the management structure of the HIDTA program and the responsibilities of ONDCP, HIDTA Executive Boards, and HIDTA Directors.

#### **3.2 OFFICE OF NATIONAL DRUG CONTROL POLICY**

ONDCP is responsible for administering the HIDTA program. The responsibilities of ONDCP include, but are not limited to:

1. Setting program priorities;
2. Issuing program and policy guidance;
3. Administering grants;
4. Publishing regulations;
5. Developing and applying performance standards;
6. Reviewing threat assessments, strategies, and annual budgets and reports submitted by Executive Boards;
7. Reviewing petitions from interested law enforcement agencies for designation as a HIDTA area;
8. Designating areas as HIDTAs and removing HIDTA designation from areas that no longer meet statutory requirements;
9. Allocating funds to the HIDTA grantees;
10. Conducting program reviews and contracting with external agencies for required audits;
11. Coordinating with the HDC regarding oversight of the NHAC; and
12. Determining compliance with HIDTA program requirements.
13. ONDCP assigns staff as point of contact to each area receiving HIDTA designation.

#### **3.3 HIDTA AWARD RECIPIENTS**

##### **3.3.1 Non-Federal Entities**

HIDTAs are defined geographic regions within the United States that meet certain statutory criteria allowing for the obligation of Federal grant funds to coordinate counter-drug activities in those designated regions. Consequently, ONDCP must provide HIDTA program funds to at least one non-Federal entity (NFE), such as a state, local, or tribal

government agency, an institution of higher education, or a nonprofit organization to carry out the Federal award as a recipient. The NFE receiving HIDTA program funds is accountable for the use of the funds and must comply with all applicable Federal statutes and regulations governing Federal grants. As a result, proper vetting and risk analysis is required prior to selection. A risk assessment tool is available in the Appendix.

(Section 6.7 identifies the principal circulars and regulations affecting Federal grants.)

### **3.3.2 Federal Entities**

Federal agencies receiving HIDTA funds from ONDCP shall sign a Memorandum of Agreement (MOA) with ONDCP prior to the transfer of HIDTA funds.

## **3.4 HIDTA EXECUTIVE BOARDS**

The ONDCP Reauthorization Act requires each area designated as a HIDTA to be governed by an Executive Board.<sup>2</sup> The Executive Board shall designate a chairman, vice chairman, and any other committees or officers that the Executive Board determines are necessary.

### **3.4.1 Board Representation and Voting Procedures**

None of the funds obligated to a HIDTA grantee or Federal agency may be expended if the HIDTA Executive Board does not apportion an equal number of votes between representatives of participating Federal agencies and representatives of participating state, local, and tribal agencies. Where it is impractical for an equal number of representatives of Federal agencies and state, local, and tribal agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph. The system used by the Executive Board to meet this requirement (e.g., weighted votes or proxy votes) must be included in the written standard operating procedures (SOPs).

### **3.4.2 Responsibilities of the Executive Board**

The HIDTA Executive Board shall be responsible for:

1. Providing direction and oversight in establishing and achieving the goals for the designated HIDTA;
2. Managing funds;
3. Reviewing and approving all funding proposals consistent with the overall objective of the HIDTA program, including the annual budget submissions;
4. Reviewing and approving all reports to the Director of ONDCP for the designated HIDTA; and

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<sup>2</sup> In the case of the NHAC, oversight is provided by the HDC in lieu of an Executive Board.

5. Overseeing the conducting of internal reviews.

### **3.4.3 Executive Board Membership**

With the exception of one member from a U.S. Attorney’s Office and one member from a state or local prosecutorial office, only those agencies with a staff member assigned full time in a HIDTA initiative may be a voting member of the Board.

Each agency’s representative to the Executive Board shall be the local head of the participating agency or a permanently-designated, high-ranking official of the agency who has the authority to commit the agency’s resources to HIDTA initiatives and to make decisions on behalf of his or her agency.

The HIDTA Director shall be a permanent non-voting member of the HIDTA’s Executive Board. In addition, Executive Boards may include representatives of non-participating agencies or associations as non-voting members of the Board.

The composition of the Southwest Border HIDTA Executive Board is established under the SWB HIDTA Standard Operating Procedures and Policies, as amended, dated February 18, 2008.

As part of the annual Strategy, each HIDTA Executive Board must certify that its composition complies with the requirements of the ONDCP Reauthorization Act. The certification must be transmitted to ONDCP and provide details regarding the composition of the Executive Board.

### **3.4.4 Executive Board Chairman and Vice-Chairman**

The ONDCP Reauthorization Act requires each HIDTA Executive Board to designate a Chairman and a Vice Chairman and any other officers to the Executive Board that it determines are necessary. A representative of a participating state/local/tribal agency shall fill one position and a representative of a participating Federal agency shall hold the other.

The positions of Chairman and Vice Chairman of the Southwest Border HIDTA Executive Board shall rotate annually among the five regions.

#### **3.4.4.1 Terms and Limitations**

The Chairman and a Vice Chairman shall each serve 1-year terms and both positions shall alternate annually between a state, local, or tribal representative and a Federal representative.

No agency shall be represented in these positions (i.e., Chairman and Vice Chairman combined) for more than 2 years consecutively.

#### **3.4.4.2 Responsibilities**

The Chairman of the Executive Board chairs the Executive Board meetings and is the

principal spokesperson for the Executive Board. The Vice Chairman shall assume the duties of the Chairman in his/her absence.

### **3.4.5 Selection of HIDTA Grantees**

HIDTAs and their Executive Boards are not considered legal entities under Federal law and generally lack the authority to enter into contracts, hire employees, or obligate Federal funds. HIDTA Executive Boards are responsible for selecting one or more grantees that, among other things, provide financial management services. Those grantees will hire employees, issue contracts, manage property, and expend HIDTA program funds as necessary to carry out the grant activities approved by the Executive Board. The grantees are accountable for the use of HIDTA program funds and must comply with all applicable Federal statutes and regulations governing Federal grants. The use of those funds is subject to the respective grantee's policies and procedures pertaining to property management, employment, procurement, and financial management. The Executive Board is responsible for selecting grantees whose established policies and procedures are consistent with Federal grantee regulatory requirements (See Title 2 CFR Part 200). Grantees must have the requisite financial and management capabilities to carry out these functions.

### **3.4.6 HIDTA Operating Procedures**

The Executive Board shall establish written SOPs (or other administrative, financial, or operational guidelines) where needed to ensure compliance with Federal grant regulations and HIDTA program requirements and to provide guidance regarding the operation of HIDTA activities. These SOPs shall be consistent with the established policies of participating agencies.

### **3.4.7 Selection of the HIDTA Director**

Each Executive Board shall select an individual to serve as the HIDTA Director. That individual will be an employee or contractor of a grantee and will be subject to all employment, contracting, and other conditions established by that grantee. The Executive Board shall notify the Director of ONDCP in writing before the individual is retained. The Executive Board, in consultation with the grantee, may remove a HIDTA Director or significantly limit his or her authority. The Executive Board shall notify ONDCP in writing prior to removing a HIDTA Director or significantly limiting his/her authority.

### **3.4.8 Oversight of the HIDTA Director**

The Executive Board, in consultation with the hiring grantee, shall draft a position description, statement of work, or other document(s) that provides sufficient guidance and authority to allow the HIDTA Director to carry out his/her duties and responsibilities, and shall provide sufficient resources therefor. (The qualification requirements and duties of the HIDTA Director are described in Section 3.5 below.)

The Executive Board in coordination with the hiring grantee shall provide oversight of the HIDTA Director.

### **3.4.9 Meetings**

Each HIDTA Executive Board shall meet at least four times a year. Minutes of each meeting must be prepared and provided to each designated policy analyst. The minutes shall be retained by the HIDTA Director for a minimum of 3 years.

### **3.4.10 Advisory Bodies**

HIDTA Executive Boards may establish subordinate advisory bodies to assist the Board in carrying out its duties. Executive Boards of multi-state HIDTAs may establish subordinate advisory bodies in each state within their respective HIDTAs. Similarly, the HDC may directly oversee or establish committees and advisory bodies to oversee national initiatives and programs.

### **3.4.11 Approval of Required Documents to ONDCP**

The Executive Board shall review and approve the threat assessment, annual report, strategy, and initiative descriptions and budget proposals (IDBPs) prior to submission to ONDCP.

### **3.4.12 Initiative Evaluation**

The Executive Board must establish an ongoing initiative review program, for both financial and programmatic issues, in order to determine each initiative's effectiveness. This review must be done at least annually to determine whether the initiative is:

1. Complying with HIDTA program requirements;
2. Effectively implementing the strategy;
3. Achieving negotiated performance targets; and
4. Sufficiently productive to warrant continued HIDTA program funding.

Initiative reviews shall be documented, and records shall be maintained for a period of three years and made available to ONDCP upon request.

The initiative review program shall ensure the advancement of the collective HIDTA initiative effort, making certain that joint initiatives do not merely support otherwise existing agency operations or supplant agency budgets.

The Executive Board is responsible for terminating or revising initiatives that are no longer productive, no longer address an identified threat, or do not comply with HIDTA program requirements.

### **3.5 QUALIFICATIONS AND RESPONSIBILITIES OF THE HIDTA DIRECTOR**

Each HIDTA Executive Board shall select a HIDTA Director. HIDTA Directors must have extensive experience in the criminal justice profession at the Federal, state, local, or tribal level. After selection, the HIDTA Director must obtain and retain a national security clearance appropriate for the HIDTA Director’s anticipated duties. The costs for obtaining this clearance shall be an allowable use of HIDTA program funds.

#### **3.5.1 Responsibilities of the HIDTA Director**

The HIDTA Director is responsible for the successful implementation of the Executive Board’s Strategy and policies. The principal responsibilities of the HIDTA Director shall be to:

1. Provide day-to-day administrative, financial, and program management for the operations of the HIDTA;
2. Facilitate and encourage the development of innovative approaches to drug law enforcement;
3. Ensure that HIDTA initiatives are in compliance with HIDTA program requirements; and
4. Advise the Executive Board concerning the performance of HIDTA initiatives.

#### **3.5.2 Liaison with ONDCP**

The HIDTA Director serves as the point of contact between the Executive Board and ONDCP on all HIDTA matters, keeps the Executive Board apprised of ONDCP policies and requirements, and represents the HIDTA at national forums.

As part of this liaison responsibility, ONDCP may request the HIDTA Director to engage in activities that benefit the HIDTA program.

#### **3.5.3 ONDCP-Required Documents**

The HIDTA Director is responsible for coordinating the preparation of the HIDTA’s annual report, threat assessment, strategy and IDBPs, and for submitting these documents to the Executive Board for its approval. (Section 9 describes the requirements for each of these documents.)

#### **3.5.4 Financial Management Responsibilities**

The HIDTA Director, in conjunction with the applicable grantee, shall be responsible for ensuring the compliance with HIDTA Program Policy and Budget Guidance and other applicable financial rules and regulations. The HIDTA Director, with the approval of the Executive Board, exercises reprogramming authority as described in Section 6. The HIDTA Director is the grantee’s point of contact for assistance and resolution of HIDTA-

related financial issues.

### **3.5.5 Property Control**

The HIDTA Director, in conjunction with the applicable grantee shall ensure that the property management requirements established in Section 8 of this guidance are met.

### **3.5.6 Performance Measures**

The HIDTA Director shall help initiatives establish adequate performance measures (as described in Section 10) and shall establish a process to verify that the reported performance data are accurate and valid. The HIDTA Director shall also ensure that the HIDTA's performance data are reported in the PMP on a quarterly basis. In addition, the HIDTA Director is responsible for ensuring that PMP training and updated PMP refresher training is provided annually.

### **3.5.7 Review of HIDTA Initiatives**

Each HIDTA Director shall establish and participate in an annual internal review process, or self-inspection, to determine whether each initiative is being implemented as described in the budget submission to ONDCP, complies with all HIDTA program requirements, and is achieving its performance targets.

The HIDTA Director shall ensure the findings of this internal review are provided in writing to the initiative supervisors and to the Executive Board. Upon request, the internal review shall be provided to ONDCP.

The results of these annual reviews must be retained for 3 years.

### **3.5.8 Control and Coordination of HIDTA Initiatives**

The HIDTA Director shall have administrative and coordination oversight responsibility for all initiatives, but shall have direct responsibility only over the management and coordination initiative. The HIDTA Director may, at the discretion of the Executive Board, provide oversight to training and information technology efforts, which may include contractor oversight, and may have direct responsibility over an ISC Manager. Neither the HIDTA Director nor the HIDTA management staff shall supervise an enforcement, intelligence, or support initiative. The HIDTA Director shall require initiative supervisors to report information related to administrative, financial, and performance requirements.

The HIDTA Director shall develop a process for facilitating the coordination and flow of information between and among initiatives and participating agencies. This process, which may include meetings or conference calls involving initiative supervisors, must be conducted at least semi-annually.

### **3.5.9 Orientation Process**

The HIDTA Director shall establish an orientation process for new Executive Board members, new participating agencies, and new initiative supervisors that addresses the specific responsibilities of each and the general requirements of the HIDTA program.

### **3.5.10 Other Duties**

The HIDTA Director shall perform other duties as designated in the agreement with the grantee or as assigned by the Executive Board. Additional duties must be consistent with HIDTA program requirements and must contribute to the operation of the HIDTA program.

### **3.5.11 Acting Director**

In the absence of the HIDTA Director, the Deputy Director may assume the Director's responsibilities. If the Deputy Director position is vacant, the HIDTA does not have a Deputy Director position, or the Executive Board opts to designate an individual in lieu of the Deputy Director, the Executive Board shall appoint an individual to serve as the Director until the position can be filled using appropriate procedures. A Deputy Director or other person expected to serve as an Acting Director for an extended period must have the same security clearances required for a Director.

### **3.5.12 Southwest Border HIDTA Director**

The position of the Southwest Border HIDTA Director shall rotate annually and shall be filled by the Regional Director from the region represented by the sitting Executive Board Chairman for that year.

## **3.6 HIDTA ADMINISTRATIVE OFFICES**

Each HIDTA shall have a management and coordination initiative staffed by the HIDTA Director, a financial officer, and, at the discretion of the Executive Board, a Deputy Director and other administrative positions approved by the Board. The Executive Board may identify individuals to fill these positions or may delegate this function to the HIDTA Director. Those individuals must currently be or must become employees or contractors of a HIDTA grantee and will be subject to all employment, contracting, and other conditions established by that grantee.

The total salaries and fringe benefits for these positions shall not exceed 20 percent of the HIDTA program funds awarded to a HIDTA without prior approval from ONDCP.

Funding requests for management and coordination initiatives will be reviewed by ONDCP annually and should include adequate information to support each funded position.

## **3.7 OTHER HIDTA STAFF**

HIDTA Executive Boards may authorize additional staff positions as necessary, including an intelligence coordinator, intelligence analysts, and other positions that directly support the ISC or operational initiatives. Persons filling these positions must currently be or become employees or contractors of a HIDTA grantee and will be subject to all employment, contracting, and other conditions established by that grantee.

## **4. COMPOSITION OF INITIATIVES**

### **4.1 PURPOSE**

Encouraging and facilitating collaboration between and among Federal, state, local, and tribal law enforcement is a role of the HIDTA program. To promote this collaboration, HIDTA enforcement initiatives must be multi-agency efforts comprised of Federal, state, local, and tribal law enforcement personnel who are collocated and commingled. This section describes those requirements.

### **4.2 MULTI-AGENCY PARTICIPATION**

1. Multi-agency participation means full-time Federal and full-time state or local (optimally both state and local) agency personnel participating in an initiative and within any single or multiple subcomponent of an initiative (e.g., task force, squad, group, or unit) under a single initiative supervisor. Any participating Federal, state, local or tribal agency may lead an initiative.
2. Full-time participation means agency personnel are assigned to the initiative as their exclusive work assignment. A liaison position does not meet the requirement for full-time participation.
3. Except where indicated otherwise in this document, initiatives that combine single-agency squads, groups, or units do not meet the requirement for full-time, multi-agency participation unless the IDBP provides a clear explanation of how these separate entities cooperate and coordinate their activities under a unified command structure. This justification must detail the expected benefits from combining these entities and explain how the combination will improve enforcement. ONDCP may require separation of these entities into different initiatives or place reprogramming or other restrictions on such initiatives.

### **4.3 COLLOCATION AND COMMINGLING OF PARTICIPANTS**

1. ONDCP requires all full-time Federal, state, local, and tribal law enforcement personnel assigned to HIDTA Law Enforcement or Intelligence and Information Sharing initiatives to be collocated and commingled. Collocation means working in or from the same facility, preferably with shared or contiguous workspace. Commingling means that all participants in an initiative have free and open access and interaction with other participants in the same initiative.
2. Whenever possible, multiple initiatives should be housed together in a central location and in a space without barriers that could hinder the interaction and commingling among participants of the various initiatives.
3. The requirement for collocation and commingling does not apply to management and coordination, support, treatment or prevention initiatives.

#### 4.4 TYPES OF INITIATIVES

There are six types of HIDTA initiatives: Enforcement; Intelligence and Information Sharing; Support; Prevention and Treatment; and Management and Coordination.

1. Enforcement Initiatives: Enforcement Initiatives include multi-agency investigative, interdiction, fugitive, and prosecution activities targeting drug trafficking and money laundering organizations, drug production organizations, drug gangs, drug fugitives, and other serious crimes with a drug nexus.
2. Intelligence and Information Sharing Initiatives: Intelligence and Information Sharing Initiatives include intelligence analysis (tactical, operational, and strategic), deconfliction services (event and case/subject), information collection and dissemination, and other analytical support for HIDTA initiatives and participating agencies.
3. Support Initiatives: Support Initiatives include activities beyond the core Enforcement and Intelligence and Information Sharing Initiatives, e.g., training, treatment, crime and forensic labs, resource (shared expenses such as leases, copiers, and landlines), and information technology initiatives.
4. Prevention: HIDTA prevention initiatives facilitate coordination and collaboration between law enforcement and the prevention community to reduce drug use and its consequences and prevent drug-related crime. Collaboration may include reaching out to or partnering with school systems, student leaders, parent groups, medical and health professionals, faith-based organizations, religious leaders, drug prevention agencies, public health agencies, and coalitions dedicated to reducing substance abuse. Prevention initiatives can also enable law enforcement personnel to participate in community based drug prevention programs.
5. Treatment: With the exception of the Washington/Baltimore HIDTA which provides ongoing funding to drug courts in its area of responsibility, the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law No. 109-469, section 301 (f) (2006)) prohibits the expenditure of Federal funds appropriated for the HIDTA program for the establishment or expansion of drug treatment programs.
6. Management and Coordination Initiatives: Management and Coordination Initiatives provide the overall coordination and integration of initiatives, and fund basic overhead (e.g., salaries and fringe benefits for the Director, Deputy Director, and other administrative staff positions approved by the Executive Board; rent; and facilities charges for administrative staff).

## **5. INTELLIGENCE AND INFORMATION SHARING**

### **5.1 PURPOSE**

Through the HIDTA program, Federal, state, local, and tribal law enforcement agencies significantly improve their ability to disrupt and dismantle drug trafficking organizations when they work together and share information.

This Section describes the basic requirements and provides guidance for criminal intelligence and information sharing initiatives within the HIDTA program. It focuses on information sharing that provides access to numerous investigation and criminal intelligence systems containing sensitive information owned by participating agencies. Adherence to the appropriate safeguarding of law enforcement sensitive (LES) information is imperative to maintain the level of trust and systems integrity necessary to retain access to participating agencies' information systems and agency-owned information, thereby preserving a robust information sharing environment.

### **5.2 BASIC REQUIREMENTS**

1. Each Executive Board must sponsor at least one Intelligence and Information Sharing Initiative, hereafter referred to as an ISC, responsible for developing information and intelligence collection requirements, and for collecting, evaluating, collating, analyzing, and disseminating law enforcement information and intelligence for participating agencies. The initiative must consist of commingled participants from Federal and state/local/tribal agencies.
2. The ISC shall be managed by a Manager approved by the Executive Board. The ISC Manager shall have extensive law enforcement criminal intelligence experience. The responsibilities of the ISC Manager include daily management and coordination of the information sharing between the participating agencies and ensuring compliance with security of the investigative and criminal intelligence systems and information provided by participating agencies. Dual Management of the ISC is encouraged and is an acceptable practice.
3. Criminal intelligence and information sharing services shall be provided in a single primary ISC. HIDTA Executive Boards have discretion to establish additional intelligence and information sharing components to suit the specific circumstances of the HIDTA region. These additional components are not subject to the requirement for commingled, multi-agency participation and will be referred to as ancillary intelligence and information sharing initiatives.
4. Each participating agency shall provide onsite, direct access to its pertinent databases at the primary ISC unless the site or personnel cannot meet the agency's established security requirements. Each participating agency not located at the primary ISC must designate specific points of contact to provide access to the agency's criminal intelligence and other information for ISC personnel.

5. HIDTA ISCs and ancillary intelligence and information sharing initiatives must comply with applicable Federal, state, local, and tribal regulations, including 28 CFR Part 23, “Criminal Intelligence Systems Operating Policies.”
6. ISCs are required to update their respective Watch Center 311 point of contact data at least twice a year. These updates shall be provided to the NHAC for posting on HRMS.
7. ISCs are required to report their PMP input at least quarterly.

### **5.3 OBJECTIVE**

1. The objectives of HIDTA ISCs and ancillary intelligence and information sharing initiatives are as follows:
  - a. Provide actionable, accurate, detailed, and timely drug and criminal intelligence/investigative information, and analytical support to HIDTA enforcement initiatives, HIDTA participating agencies, and other law enforcement agencies and intelligence centers; and
  - b. Collect, collate, analyze, and disseminate information about offenders, crimes, and/or events to law enforcement agencies. HIDTA Executive Boards may authorize the use of the HIDTA ISCs and ancillary intelligence and information sharing initiatives to support an investigation or activity that does not have a clear connection to a drug-related crime, in accordance with the ONDCP Reauthorization Act of 2006 (Public Law 109-469, Title III, SEC. 707).
2. Functions:
  - a. Analytical services;
  - b. Development of drug threat assessments;
  - c. Intelligence products such as special assessments, bulletins, and alerts;
  - d. Information sharing; and
  - e. Deconfliction.

#### **5.3.1 Intelligence**

The core intelligence functions include:

1. Providing analytical services;
2. Developing drug threat assessments;
3. Providing intelligence products such as special assessments, bulletins, and alerts;
4. Sharing information; and

5. Supporting deconfliction efforts.

### **5.3.2 Analytical Support**

HIDTA ISCs shall provide analytical support to significant cases and, where practicable, to all HIDTA-funded cases upon request.

### **5.3.3 Threat Assessments**

Each Executive Board shall produce an annual Threat Assessment documenting the drug trafficking activities within its region. Each Executive Board shall provide a copy of any drug threat assessment that is produced for its region to ONDCP and the El Paso Intelligence Center (EPIC). The Executive Board has discretion to share any threat assessment more broadly, subject to the limitations imposed by the product's national security classification or law enforcement sensitivity.

### **5.3.4 Criminal Intelligence Products**

Executive Boards shall seek to produce the full range of tactical, operational, and strategic criminal intelligence products.

### **5.3.5 Information Sharing**

The core information sharing functions include:

1. Performing event and case/subject/target deconfliction;
2. Obtaining access to and using law enforcement, proprietary, and public databases;
3. Establishing and maintaining electronic connectivity to all HIDTA participating agencies;
4. Establishing and maintaining electronic connectivity and/or obtaining access to law enforcement proprietary and public databases within state and regional fusion centers; and
5. Sharing drug-related information with other investigative support centers, national intelligence centers (e.g., EPIC, Financial Crimes Enforcement Network (FinCEN), Crime and Narcotics Center (CNC), Fusion Centers, Joint Terrorism Task Forces, Regional Information Sharing System (RISS) Centers, and other Federal, state, local, and tribal law enforcement agencies).

The HIDTA program serves as an ambassador and trusted custodian of information owned by its participating agencies and facilitates appropriate sharing of said information. As such, HIDTAs engaged in facilitating agency-owned, law enforcement sensitive information sharing will adhere to applicable Federal, state, and local statutes and agency-specific policies and procedures governing the use of law enforcement

sensitive information. This includes, but is not limited to, all sharing of case-related information or data as governed by the agency that owns the information and its rules for disclosure and sharing. Such information sharing on non-government or non-approved law enforcement websites, social medial websites, or un-approved email domains is prohibited.

### **5.3.6 Deconfliction**

Each Executive Board shall adopt an established deconfliction system by using one of the three nationally recognized systems: Case Explorer, SAFETnet, or RISSafe/Intel. Each of the systems provides event and open case/subject/target deconfliction within their assigned HIDTA region no fewer than 8 hours per day, 5 days a week and must be able to respond to an inquiry on the same day it is received. Executive Boards shall seek to provide around-the-clock (24/7) event deconfliction service, with an immediate response, to all law enforcement in their HIDTA region. Executive Boards shall further adopt an established system that provides open case subject/target deconfliction with other HIDTA ISCs and law enforcement agencies.

### **5.3.7 Investigative Databases**

To the degree practicable, each participating agency shall provide collocated access to its investigative databases at the primary ISC.

### **5.3.8 Electronic Connectivity**

Executive Boards are responsible for establishing and maintaining the capacity (e.g., hardware, software, policies, and procedures) to continuously and securely share information with other agencies participating in the HIDTA program and law enforcement/intelligence components.

### **5.3.9 Sharing**

HIDTA Directors must ensure that all initiative and participating agencies receive relevant information and intelligence products in a timely fashion. HIDTA Executive Boards shall also establish guidelines for disseminating information directly to other HIDTAs and law enforcement agencies that may benefit from the information.

## **5.4 MANAGEMENT AND STAFFING**

1. ISCs overseeing Intelligence and Information Sharing Initiatives must be sponsored and supervised by at least one participating law enforcement agency. Dual management of the ISC is encouraged and is an acceptable practice.
2. Executive Boards shall ensure appropriate management through Federal, state, local, or tribal oversight over the ISC(s) through an ISC Manager. Managers of the ISCs shall be current or past sworn Federal, state, local, or tribal law enforcement officers or current or past law enforcement intelligence analysts.

3. The above provision does not preclude the use of non-sworn or non-law enforcement personnel to serve in a staff or other non-leadership capacity. The HIDTA Director may assign a member of his/her staff to conduct administrative and coordination activities relating to the Intelligence and Information Sharing Initiative(s). This staff position cannot have supervisory authority over the initiative supervisors or operational activities of the ISCs nor any involvement in intelligence production activities. However, the position may have the oversight authority to ensure HIDTA program policy requirements are met.
4. Participating agencies that do not assign full-time staff to the primary ISC must make defined commitments to the HIDTA's Intelligence and Information Sharing Initiative. This could include using HIDTA funds to support agency personnel, assigning personnel on a part-time basis, or assigning a designated point of contact for ISC coordination. If HIDTA funds are used to support an agency position, the incumbent must have appropriate access to the agency's criminal information systems. If any participating agency cannot provide ISC personnel direct access to its databases, that agency shall designate a point of contact to ensure access to its information.

#### **5.5 COORDINATION REQUIREMENTS**

1. All HIDTA initiatives shall use the HIDTA's ISC and/or ancillary intelligence and information sharing initiative for event and case/subject/target deconfliction of all enforcement/operational activities. The HIDTA Director and ISC Manager must ensure deconfliction activities are tracked consistent with PMP guidelines and definitions.
2. The Executive Board shall strongly encourage participating agencies to use the deconfliction process in investigations not funded by HIDTA and shall invite non-participating agencies to use the HIDTA's deconfliction services. A mechanism shall be established for informing law enforcement agencies within the HIDTA region of the capabilities of the HIDTA's ISC and ancillary intelligence and information sharing initiatives.
3. HIDTA criminal intelligence components shall maintain working relationships with the criminal intelligence and information sharing components of the participating agencies and other law enforcement agencies in the HIDTA region (to include state and regionally operated fusion centers operating in the HIDTAs' designated areas). Executive Boards shall seek to make the exchange of information and the coordination of activities with all agencies in the HIDTA region routine.

#### **5.6 INFORMATION SHARING REQUIREMENTS**

Applicable Federal, state, or local laws, regulations, or policies regarding the collection, storage, and dissemination of investigative information will govern the operation of HIDTA ISCs and ancillary intelligence and information sharing initiatives. Components of ISCs and ancillary intelligence and information sharing initiatives will disseminate

intelligence to participating agencies, subject to legal restrictions, using the following guidelines:

### **5.6.1 Requests from Law Enforcement Agencies**

Requests from a law enforcement agency about a criminal organization/enterprise shall be handled in accordance with agency policies, established information sharing agreements, information system policies, and 28 CFR 23.

### **5.6.2 Products Initiated by the Intelligence and Information Sharing Initiative**

Criminal intelligence materials produced by a HIDTA ISC or ancillary intelligence and information sharing initiative with a nexus to ongoing cases conducted by a HIDTA initiative shall be disseminated to the agency or agencies having the investigative/operational interest. Additional dissemination of the product will be at the approval of those agencies.

Criminal intelligence materials produced by HIDTA ISC or ancillary intelligence and information sharing initiatives with no specific agency operational or investigative equities shall be disseminated to HIDTA initiatives and participating agencies and, when appropriate, to non-participating law enforcement agencies. ISCs shall use the HIDTA Resource Management System (HRMS) as a repository for informational products such as threat assessments, strategies or administrative documents and manuals. Criminal intelligence products shall be provided to EPIC and law enforcement agencies with a need to know as appropriate.

## **5.7 SECURITY**

### **5.7.1 Personnel**

Personnel with a requirement to access national security information or secure areas of the ISC must have sufficient security clearance to allow such access. ISC Managers and Supervisors must have security clearances at a level to permit them access to all areas of the ISC facility. Federal agencies with joint management responsibility for ISCs shall assist in obtaining the appropriate clearance level for personnel assigned to an Intelligence and Information Sharing Initiative. The costs for obtaining this clearance shall be an allowable use of HIDTA funds.

### **5.7.2 Facilities**

All intelligence and information sharing facilities shall meet the security requirements of the sponsoring agency, in accord with the level of information collected or stored at the facility. The costs of upgrading the facility to meet these requirements shall be an allowable use of HIDTA funds.

### **5.7.3 Information**

All personnel are required to store all files, documents, and data storage disks in compliance with information classification and handling restrictions of the agency that originated the document or material or the sponsoring agency for the Intelligence and Information Sharing Initiative, whichever has the more secure standard. Safeguarding and handling of classified information shall comply with Executive Order 12968.

Information systems security policies must be established that meet or exceed the minimum security requirements of the participating agencies.

Law Enforcement Sensitive data in digital transit between electronic systems shall be encrypted per the encryption standards of the National Institute of Standards and Technology (NIST) when practicable.

At a minimum, Law Enforcement Sensitive information shall only be transmitted to trusted parties on trusted systems that ensure the security of the data.

Commercial systems must be certified by the Federal Information Security Management Act (FISMA) in order to store or process Law Enforcement Sensitive data. Examples of commercial systems include, but are not limited to, commercial cloud services, data backup services, data storage services, etc.

## **5.8 TRAINING**

Each Executive Board shall make available appropriate training for personnel assigned to the HIDTA ISC and ancillary intelligence and information sharing initiatives and for the participating agencies. If possible, this training shall be extended to non-participating law enforcement agencies.

## **5.9 HIDTA INTELLIGENCE AND INFORMATION SHARING COMMITTEE**

The HDC shall establish a HIDTA Intelligence and Information Sharing Committee to consult on issues related to intelligence and information sharing matters. The Committee may establish such working groups to assist in its work and may request assistance from ISC or intelligence program managers, information technology specialists, and others from the HIDTAs. The Committee shall have regular meetings via teleconference or in person in conjunction with a conference or other event.

## **6. FINANCIAL MANAGEMENT**

### **6.1 PURPOSE**

This section describes major financial management requirements, including limitations on the use of funds, for the HIDTA program. It is primarily intended for use by HIDTA Executive Boards and Directors and senior representatives of grantees who need to be familiar with Federal grant management requirements. This section is not intended to be a substitute for more detailed financial management requirements and guidelines established by the Office of Management and Budget. (See Section 6.7 for a list of the relevant circulars and rules.)

### **6.2 HIDTA GRANT AWARDS**

ONDCP uses a threat-driven process that requires each HIDTA Executive Board to assess the drug trafficking activities in its region, design a strategy to attack those activities, plan initiatives to carry out the strategy, and develop a budget that is sufficient to carry out the planned initiatives. ONDCP awards funds to designated grantees based on a review and assessment of the Threat Assessment, Strategy, Initiative Description, and Budget Proposals that each HIDTA Executive Board submits to ONDCP.

HIDTAs are not legal entities under Federal law, but rather a coalition joined together to receive HIDTA funds to coordinate drug-related law enforcement activities of Federal, state, local, and tribal law enforcement agencies in designated areas. Such designation enables participating agencies to combine and leverage resources and capabilities to address drug trafficking and drug-related crime.

Consequently, ONDCP must provide HIDTA program funds to one or more legal entities, such as a state, local, or tribal agency, an institution of higher education, or a non-profit organization to act as the grantee(s) for agencies participating in the HIDTA program. In this role, the grantee is accountable for the use of HIDTA funds and must comply with all applicable Federal statutes and regulations and with its own regulations and policies. As a result, proper vetting and risk analysis is required prior to selection. Please see the risk assessment tool in the Appendix.

#### **6.2.1 Subawards**

Subawards must be monitored by the award recipient as outlined in 2 CFR 200.331. In addition, the award recipient must ensure accurate reporting in the Federal Subaward Reporting System (FSRS). Assistance in determining the nature of a subaward or contractual relationship can be found in Appendix VI.

### **6.3 SUPPLANTING OF FUNDS**

HIDTA funds must be used to supplement existing activities and must not replace (supplant) funds that have been appropriated for the same purpose. ONDCP will review all HIDTA budget submissions for potential supplanting. If there appears to be

supplanting, ONDCP shall require the grantee to supply a written certification through the HIDTA Director, stating that Federal funds will not be used to supplant state or local funds. ONDCP will also review for supplanting of state, local, and tribal funds during on-site monitoring and financial audits.

#### **6.4 INTERNAL CONTROLS**

The non-Federal entity must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further guidance and best practice suggestions are available in Section 200.303 of the Uniform Administrative Requirements, the “Standards for Internal Control in the Federal Government” (Green Book) issued by the US Comptroller General or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

#### **6.5 GRANT AWARD PERIOD OF PERFORMANCE AND EXTENSIONS**

ONDCP awards HIDTA program funds to a state, local, or tribal government agency, an institution of higher education, or a nonprofit organization (non-Federal entities) in the form of 2-year grants, and to Federal agencies in the form of inter-governmental/non-expenditure fund transfers for 2 years. The 2-year period for Federal transfers commences on October 1<sup>st</sup> of the Federal fiscal year for which the funds are appropriated; for non-Federal entities, the 2-year period commences on January 1<sup>st</sup> within the Federal FY for which funds are appropriated. However, a HIDTA Director may request an extension of the period of performance on behalf of the grantee. The extension request with supporting justification must be submitted in the HIDTA Financial Management System (FMS) at least 10 calendar days before the end of the period of performance specified in the award. A request must demonstrate meaningful rationale for the underlying extension. Any additional extension requests will be closely scrutinized and carefully considered and approved on a case-by-case basis.

A grantee may charge to the award only allowable costs incurred during the period of performance.

#### **6.6 DOCUMENTATION FOR GRANTS**

Grantees must submit an SF-424, “Application for Federal Assistance,” and the associated certifications and representations, through the HIDTA Director to the NHAC along with the IDBPs submitted by an Executive Board for ONDCP approval. ONDCP will not authorize the release of funds for disbursement until the completed SF-424 and award letter are received by the NHAC.

ONDCP executes approved funding requests or grant modifications to grantees by issuing a Grant Agreement. The grant recipient must sign a copy of the grant agreement and return it through the HIDTA Director to the NHAC. The grant agreement contains general provisions that describe requirements that apply to all Federal grants, and special conditions that apply specifically to that grant. The general terms and conditions as well

as archives of previous versions of the general terms and conditions are available online at [www.whitehouse.gov/ondcp/grants](http://www.whitehouse.gov/ondcp/grants). ONDCP may impose additional reporting or monitoring requirements, or require prior approval of certain actions to grantees that fail to comply with these requirements.

## **6.7 GOVERNMENT-WIDE GRANT REQUIREMENTS**

The HIDTA Program Policy and Budget Guidance incorporates The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200 (the “Uniform Guidance”), as adopted and implemented by ONDCP in 2 C.F.R. Part 3603. The Part 200 Uniform Guidance supersedes, among other things, the provisions of 28 C.F.R. Parts 66 and 70, as well as those of 2 C.F.R. Parts 215, 220, 225 and 230, and corresponding circulars.

For the purposes of the HIDTA program, the Uniform Guidance (effective December 26, 2014) applies to HIDTA grant awards beginning with FY 2016. Grantees may continue to follow the requirements in past circulars for grants awarded prior to FY 2016. However, grantees may implement the Uniform Guidance sooner on awards issued prior to FY 2016, if they desire.

Grantees and HIDTA Financial Managers must keep apprised of changes in relevant government-wide regulations and OMB circulars.

## **6.8 DOCUMENTS REQUIRED FOR TRANSFERS TO A FEDERAL AGENCY**

Federal agencies receiving HIDTA funds from ONDCP shall sign a Memorandum of Agreement (MOA) with ONDCP prior to the transfer of HIDTA funds. The MOA establishes requirements pertaining to the scope of the initiatives, reprogramming of funds, reporting requirements, and financial management standards. ONDCP may require an agency that fails to comply with the requirements of the MOA to repay the funds transferred.

Each Federal agency receiving HIDTA funds shall provide to the respective HIDTA a copy of the MOA and an approved budget for each initiative in that HIDTA for which it has received HIDTA funds. The signed MOAs will be posted in FMS by ONDCP.

## **6.9 RESTRICTIONS ON HIDTA FUNDS**

### **6.9.1 HIDTA-Funded Positions**

Grantees may use HIDTA funds to hire employees or to enter into contracts with individuals to manage and staff the HIDTA. Whether as an employee or contractor, the hiring agency’s employment and contracting rules and regulations apply to those positions. Individuals in HIDTA-funded positions cannot be compensated with both HIDTA funds and other funds to perform identical duties. If an individual receives compensation from both HIDTA and another source, the individual’s duties and compensation should be clearly defined and properly allocated. Additionally, to the

extent they do not conflict with the hiring agency's rules and regulations, the following restrictions apply to HIDTA-funded positions.

### **6.9.1.1 Non-Law Enforcement Positions**

#### **6.9.1.1.1 HIDTA Directors and Deputy Directors**

ONDCP expects all HIDTA Directors and Deputy Directors to work full-time for the HIDTA program exclusively and to have no other full-time employment. All other full-time work performed by HIDTA Directors or Deputy Directors is prohibited unless a waiver is granted by ONDCP. Part-time work is allowable without prior ONDCP approval. However, any employment must avoid personal conflict of interest, consistent with Subpart 3 of the Federal Acquisition Regulation.

ONDCP will reimburse compensation for HIDTA Directors at the equivalent of a GS 15, Step 1 (including locality adjustments), but compensation will not be reimbursed in amounts in excess of a GS 15, Step 5 (including locality adjustment).

ONDCP will reimburse compensation for HIDTA Deputy Directors at the equivalent of a GS 14, Step 1 (including locality adjustments), but compensation will not be reimbursed in amounts in excess of a GS 14, Step 5 (including locality adjustment).

ONDCP will reimburse fringe benefit packages, or compensation in lieu of fringe benefits, for the Director and Deputy Director in an amount not to exceed 30 percent of the salary for that position unless required by law, grantee-employee agreement, or an established policy of the grantee. Car allowances, cell phone allowances, and liability insurance premiums are not considered compensation or fringe benefits.

#### **6.9.1.1.2 Other Non-Law Enforcement Positions**

In addition to the HIDTA Director position, HIDTA funds may be used to support other positions that an Executive Board determines are necessary for the efficient functioning of the HIDTA's operation. These positions must directly and exclusively support the HIDTA's operation.

Hiring agencies must document the policies and procedures for all personnel administration issues, including compensation and advancement, for all HIDTA-funded positions.

### **6.9.1.2 Hiring Agency Certification**

Each agency that uses HIDTA funds to support positions within that agency must submit an annual certification to the HIDTA Director on agency letterhead. These certifications must be signed by a supervisory official from the employee's agency having first-hand knowledge of the work performed by the employee. Each certification shall be maintained at the HIDTA Director's office and shall be made available to ONDCP upon request. Hiring agencies must provide annual certifications

for employees that are supported, wholly or in part, by HIDTA funds.

The certification must attest, verbatim, to each of the following statements:

1. The [number and title of position(s)] does not supplant any part of the [name of agency] budget. HIDTA funds for this position(s) do not replace funds that have been appropriated for the same purpose.
2. Each of these positions is exclusively dedicated to one or more HIDTA initiatives, and a position description is on file and will be made available on request.
3. The HIDTA-funded position(s) would be terminated if the funding were not available.
4. There is no alternative funding available to support the salary(ies) and benefits for these positions.

### **6.9.1.3 Compensation Levels**

HIDTA Executive Boards shall establish compensation in accordance with the hiring agency's pay scale for defined agency positions or positions with comparable duties and responsibilities. Executive Boards may recommend the compensation levels established in the Federal General Schedule where a demonstrated lack of qualified candidates makes it difficult to fill a position.

ONDCP will reimburse compensation for a position other than HIDTA Director in an amount not to exceed the annual salary established by the OPM for a GS-14 step 5 (including locality adjustments). ONDCP will reimburse fringe benefit packages, or compensation in lieu of fringe benefits, for a position other than HIDTA Director in an amount not to exceed 30 percent of the salary for that position unless required by law, grantee-employee agreement, or an established policy of the grantee.

### **6.9.1.4 Compensation – Additional Requirements**

The following information contains portions of direct excerpts from 2 CFR 200.430(i). Adherence to the complete citation of the regulation is required.

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

1. Be supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
2. Be incorporated into the official records of the grantee;
3. Reasonably reflect the total activity for which the employee is compensated by the grantee;

4. Encompass both Federally-assisted and all other activities compensated by the grantee on an integrated basis, but may include the use of subsidiary records as defined in the grantee's policy;
5. Comply with the established accounting policies of the grantee; and
6. Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two or more indirect activities that are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity.

#### **6.9.1.5 Law Enforcement and Prosecutorial Positions**

HIDTA initiatives that propose using Program funds to pay all or part of the salary of a state or local law enforcement officer, a prosecutor, or prosecutorial support staff must submit a detailed justification explaining why it is necessary to use HIDTA funds for this purpose. ONDCP reviews of such requests will consider the number and salaries of the positions to be supported, the total amount of HIDTA funds requested for this purpose, the number of officers in the agency that will be reimbursed, and other factors. If ONDCP does not approve such a request, the grantee will be notified in writing of the reasons for the disapproval.

#### **6.9.1.6 Relocation Costs**

ONDCP will not reimburse for relocation costs of employees.

### **6.9.2 Overtime**

#### **6.9.2.1 Eligibility for Overtime**

Generally, only state, local, and tribal law enforcement officers and uniformed Federal agents (e.g., uniformed Customs and Border Protection and U.S. Forest Service) are eligible for HIDTA-funded overtime. In unusual circumstances, non-law enforcement personnel may receive HIDTA-funded overtime if the overtime is performed exclusively for a HIDTA-funded activity as defined in section 4.4.

HIDTA funds shall be used to pay overtime only if the participant is eligible for such compensation by his/her parent agency and the overtime was performed in support of a HIDTA-designated Enforcement Initiative or Intelligence and Information Sharing Initiative.

#### **6.9.2.2 Unauthorized Uses for Overtime**

HIDTA funds shall not be used to pay overtime related to training attendance, financial management, drug treatment, drug demand reduction or prevention, or non-investigative-related administrative work.

### **6.9.2.3 Organized Crime Drug Enforcement Task Force (OCDETF) Overtime**

Once an investigation receives OCDETF designation, the OCDETF Program should pay for overtime. While there is no absolute prohibition on the use of HIDTA funds for overtime related to OCDETF cases, HIDTA funds should not be the first source of overtime for OCDETF cases.

### **6.9.2.4 Maximum Overtime Amounts**

HIDTA-funded annual overtime for individual state, local, and tribal law enforcement officers and uniformed Federal agents shall not exceed the lower of: (1) applicable state, local, and tribal regulations of officer’s parent agency; or (2) 25 percent of the Federal GS-12, Step 1 level pay scale for “Rest of U.S.” in the law enforcement general schedule (GS) in effect at the beginning of the calendar year (CY), the parent agency’s FY, or other 12-month period selected by the parent agency.

In addition, this reimbursable overtime rate is the maximum that an officer can receive during the calendar year, fiscal year, or other 12-month period from all Federal funding sources combined. As the cap on overtime from all Federal sources is imposed by other Federal agencies, including the Department of Justice and Homeland Security, ONDCP has no authority to waive or increase Federal overtime authorized for HIDTA task force officers who will exceed the limit.

For non-law enforcement officers, the maximum amount shall be the lower of: (1) the applicable state, local, and tribal regulations of the agency hiring or contracting with the individual; or (2) 25 percent of the Federal GS-12 step 1 level pay scale in the General Schedule (“Rest of U.S.”) in effect at the beginning of the calendar year, the parent agency’s fiscal year, or other 12-month period selected by the parent agency.

### **6.9.2.5 Responsibilities for Overtime Compliance**

The participating agency or initiative supervisor of the personnel receiving HIDTA-funded overtime shall ensure overtime is tracked, the maximum allowable amounts are not exceeded, the overtime is for HIDTA initiative-related activities, and the individual does not receive overtime compensation from another funding source for the same hours worked.

### **6.9.2.6 Overtime Non-Compliance**

ONDCP shall require repayment by the participating agency if overtime payments to an individual exceed the maximum limit or if the hours charged to overtime are found not to be for HIDTA initiative-related activities. If ONDCP finds that a parent agency’s recordkeeping is deficient, ONDCP may impose additional reporting requirements on that agency.

## **6.9.3 Vehicles**

### **6.9.3.1 Eligible Uses of HIDTA Funds**

The following information contains portions of direct excerpts from 2 CFR 200.431(f). Adherence to the complete citation of the regulation is required.

HIDTA funds may be used to (1) pay the purchase price of special purpose vehicles, such as a surveillance van, for a participating agency; (2) provide a vehicle allowance to a participating agency to lease or purchase a vehicle; and/or (3) provide a vehicle allowance for the use of privately-owned vehicles.

HIDTA funds may be used to purchase, lease, or provide a vehicle allowance only for the HIDTA Director, Deputy Director, and state, local, and tribal law enforcement officers assigned full-time to a HIDTA initiative and who are on 24-hour recall status.

HIDTA funds may be used to provide vehicles or a vehicle allowance for other positions if prior approval is obtained from ONDCP annually. ONDCP will grant approval in such cases if the HIDTA Executive Board demonstrates: (1) the position requires frequent travel to multiple locations within the HIDTA region on official HIDTA business; and (2) reimbursement of actual expenses or current IRS mileage rates would exceed the cost of the vehicle or vehicle allowance.

That portion of vehicle costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect costs.

### **6.9.3.2 Use of HIDTA-Funded Vehicles**

Vehicles leased or purchased with HIDTA funds shall be used only for official HIDTA-related business in accordance with parent agency regulations. Participating agencies that choose to apply a vehicle allowance toward the purchase of a vehicle shall ensure the vehicle is assigned to investigators working full-time in a HIDTA initiative and is used exclusively for HIDTA initiative-related activities. For each HIDTA-funded vehicle, the agency or initiative using the vehicle must document its assignment in support of HIDTA initiative-related activities and provide a copy of the documentation to the HIDTA Director on an annual basis.

### **6.9.3.3 Federal Agency Prohibition**

HIDTA funds shall not be used to purchase or lease vehicles, aircraft, or watercraft for assignment to Federal agency personnel, and shall not be used for fuel, repair, and maintenance for vehicles purchased, leased, or otherwise acquired by Federal agencies.

## **6.9.4 Liability Insurance**

HIDTA funds may be used to purchase liability insurance for the Director, Executive Board, and the HIDTA staff where necessary and appropriate. The coverage purchased

with HIDTA funds shall be limited to the typical coverage provided for a public official in the HIDTA region.

HIDTA funds may be used to supplement existing liability insurance if that insurance is inadequate. In such cases, HIDTA funds may be used to acquire only the additional coverage needed to provide typical coverage for a public official in the HIDTA region.

If HIDTA funds are used to purchase liability insurance, the cost of that insurance shall be listed as a line item expense in the budget submission for the HIDTA's Management and Coordination Initiative.

### **6.9.5 Costs Related to Prosecutions**

HIDTA funds may not be used for salaries of attorneys, paralegals, or other staff involved in prosecuting criminal offenders or providing other legal assistance unless the activity clearly contributes to the HIDTA Strategy.

## **6.10 TRAVEL COSTS**

### **6.10.1 General.**

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees and/or contractors who are in travel status on official HIDTA business. Travel funded with HIDTA appropriations must clearly benefit the HIDTA program.

### **6.10.2 Non-Federal Travel**

The following information contains portions of direct excerpts from 2 CFR 200.474. Adherence to the complete citation of the regulation is required.

Travel costs for a non-Federal participant may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in reasonable charges consistent with those normally allowed in like circumstances in the grantee's non-Federally-funded activities and in accordance with the non-Federal entity's written travel reimbursement policies.

In the absence of an acceptable, written grantee agency policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards. (See 48 CFR 31.205-46(a).)

Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the grantee in its regular operations as the result of the grantee's written travel policy.

### **6.10.3 Federal Agency Travel.**

Travel expenses incurred by a Federal participant that are funded by a HIDTA award must be compliant with the travel requirements of the Federal agency receiving the HIDTA award.

### **6.10.4 Foreign Travel Costs.**

HIDTA funds may not be used for foreign travel costs by non-Federal participants without the prior approval of ONDCP. Each separate foreign trip must receive such written approval. Requests for foreign travel need not contain “law enforcement sensitive” information; the case number, a summary of the investigative purpose, and roster of personnel required to travel is sufficient. For purposes of this provision, “foreign travel” includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions. Federal agencies must ensure other Federal resources are not available prior to using HIDTA funds for the international travel of Federal employees.

### **6.10.5 OCDETF Travel Costs.**

Once an investigation receives OCDETF designation, the OCDETF Program should pay for travel costs. While there is no absolute prohibition on the use of HIDTA funds for travel related to OCDETF cases, HIDTA funds should not be the first source of travel for OCDETF cases.

### **6.10.6 Conferences**

All national HIDTA conferences require pre-approval from ONDCP.

A “conference” includes a meeting, seminar, symposium or workshop which has as its primary purpose “the dissemination of technical information beyond the NFE and is necessary and reasonable for performance under the Federal award.” (See 2 CFR 200.432).

Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate and necessary and are managed in a manner that minimizes costs to the Federal award.

Conference approval requests should include:

1. A description of its purpose;
2. The number of participants attending; and
3. A detailed statement of costs to the award, including the cost of employee or contractor travel to and from the conference and a discussion of the methodology used to determine which costs related to the conference.

## **6.11 PROHIBITED USES OF HIDTA FUNDS**

2 CFR Part 200 and Executive Order 13688 contain regulations governing the expenditure

of Federal funds. In addition to the disallowable items listed in the regulations, ONDCP will not reimburse funds expended for the following purposes:

1. Clothing or clothing allowances;
2. Food and beverage items;
3. Personal hygiene or medication items, except for: (1) items such as toilet paper, hand-towels, soap, and other items that are standard supplies for an office; and (2) special hygiene products for the mitigation of risks from contact with communicable pathogens or hazardous substances that arise from tasks performed by HIDTA participants (e.g., disinfectant wipes and liquids used after handling persons, evidence, seized materials, or exercising a search warrant);
4. Promotional or representational items (e.g., hats, pins, T-shirts, or other memorabilia);
5. Gifts, except for plaques and other commemorative items not exceeding \$150 awarded to recognize service to a HIDTA initiative(s) or the HIDTA program;
6. Real property;
7. Weapons and holsters;
8. Ammunition;
9. Standard issue departmental-type equipment and uniforms including raid/tactical gear;
10. Professional association or bar dues.

## **6.12 REVISION OF BUDGET AND PROGRAM PLANS**

ONDCP awards funds based on a review and assessment of the HIDTA Strategy and the Initiatives described in the annual budget proposals submitted to ONDCP. HIDTA program funds must be used by recipients to carry out activities in support of the *National Drug Control Strategy*. Budget-related changes in the objective or scope of a project require prior approval using the FMS.

There are two levels of reprogramming: Level A reprogramming, which requires approval from ONDCP before the proposed reprogramming can be executed; and Level B reprogramming, which can be approved by the HIDTA Director subject to procedures established by the HIDTA's Executive Board. Only ONDCP and HIDTA Directors are authorized to approve a reprogramming. Participating agencies and initiative supervisors do not have approval authority for reprogramming of HIDTA funds.

### **6.12.1 Approval Authority**

#### **6.12.1.1 Level "A" Reprogramming – ONDCP Approval Required**

##### **6.12.1.1.1 CHANGES TO GRANT OR TRANSFER TOTALS**

Approval from ONDCP is required for any proposed reprogramming that involves moving funding from a Federal agency or non-Federal entity to another Federal agency or non-Federal entity. Such reprogramming may require an amendment to the total amount of funds awarded to a grantee or the amount of funds transferred to a Federal agency. Because both of these actions require changes to account balances established by ONDCP, any such reprogramming, regardless of the amount involved, must be approved by ONDCP.

#### **6.12.1.1.2 SUBSTANTIAL CHANGES TO INITIATIVE BUDGETS**

1. Initiatives with budgets of \$100,000 or more – Approval from ONDCP is required for any reprogramming of an amount equal to or greater than 20 percent of the initiative’s currently approved budget.
2. Initiatives with budgets of less than \$100,000 – Approval from ONDCP is required for any reprogramming of an amount equal to or greater than 35 percent of the initiative’s currently approved budget.

#### **6.12.1.2 Level “B” Reprogramming – HIDTA Director Approval**

HIDTA Directors and SWB Regional Directors, subject to procedures established by the Executive Board, may approve any reprogramming not subject to the requirements for a Level A reprogramming.

### **6.12.2 Reprogramming Deadlines**

#### **6.12.2.1 Federal Reprogramming Deadline**

Requests to reprogram funds from one Federal agency to another or between a Federal agency and a non-Federal entity will be collated and processed on September 30<sup>th</sup>, December 31<sup>st</sup>, and March 31<sup>st</sup>. The final deadline for such reprogramming is March 31<sup>st</sup> of the final year following the appropriation of the funds. In other words, if the award is a 2-year award, the reprogramming must be submitted by March 31<sup>st</sup> of the second year of the award. Requests for an unexpected or urgent reprogramming will be considered by ONDCP.

#### **6.12.2.2 Terminated Initiatives**

If an Executive Board terminates an initiative that has not expended all funds budgeted for that initiative, the HIDTA Director shall reprogram the remaining funds within 90 days of the termination. The Annual Report shall identify any outputs that were accomplished by the initiative before it was terminated. Reprogramming of funds of terminated initiatives shall be considered Level A reprogramming.

### **6.13 ADMINISTRATIVE REQUIREMENTS**

1. Each HIDTA Executive Board shall establish procedures to ensure that all reprogramming requests comply with administrative and financial requirements of

- participating agencies and with all HIDTA program requirements established by ONDCP.
2. All reprogramming requests must be submitted to ONDCP by the HIDTA Director using the HIDTA FMS.
  3. Each request for a reprogramming shall include sufficient detail to enable ONDCP to assess the request; e.g., a request to reprogram funds into equipment must include a list of equipment to be purchased.

#### **6.14 TREATMENT AND PREVENTION LIMITATIONS**

Due to limitations enacted in Section 301 of the ONDCP Reauthorization Act of 2006, no HIDTA funds shall be used to establish or expand a drug treatment program that was not in existence on October 21, 1998. In addition, the Act requires the ONDCP Director to ensure that not more than 5 percent of the Federal funds appropriated for the Program are expended for the establishment of drug prevention programs.<sup>3</sup>

#### **6.15 FORFEITURE PROCEEDS**

Asset forfeiture proceeds generated by the HIDTA-funded initiatives shall not be considered as program income earned by HIDTA grantees or resource recipient. ONDCP encourages HIDTA Executive Boards to establish procedures for using asset forfeiture proceeds generated by HIDTA activities to supplement HIDTA-funded activities.

#### **6.16 CONFIDENTIAL PAYMENTS**

HIDTA program funds may be used by participating agencies for the confidential purchase of services, evidence, and information, subject to the requirements of this subsection. These provisions apply to all grantees or resource recipients involved in the use of HIDTA grants for confidential funds.

##### **6.16.1 Definition**

Confidential funds are those monies allocated under the following categories:

##### ***Purchase of Services (P/S)***

This category includes travel or transportation of an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft, or boats, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

##### ***Purchase of Evidence (P/E)***

This category is for the purchase of evidence and/or contraband (e.g., narcotics and other dangerous drugs, firearms, stolen property, counterfeit tax stamps, documents) required

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<sup>3</sup> The 5% cap for prevention is program-wide and does not apply to an individual HIDTA.

to determine the existence of a crime or to establish the identity of a participant in a crime.

### ***Purchase of Specific Information (P/I)***

This category includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

### **6.16.2 Written Procedures**

Special accounting and control procedures should govern the use and handling of HIDTA program funds for confidential expenditures. It is important that expenditures are accurately reported as PE/PI/PS to properly account for spending and provide accurate forecasts of projected need. Each agency authorized to disburse confidential funds must develop and follow written procedures that incorporate the elements listed below. This information must be made available to the HIDTA Director, his/her representatives, or to representatives of ONDCP upon request. If an agency does not have such procedures, the HIDTA Director is responsible for working with that agency to develop adequate procedures.

#### ***Transaction records must clearly reflect:***

- Case identifier;
- The date of payment(s) of confidential funds;
- The name of the payer and a witness to the payment;
- The name of the person approving the payment;
- The purpose for which the funds were used;
- Informant number or other non-sensitive identifier; and
- Adequate explanation to allow an auditor to determine that the funds were properly categorized.

#### ***Documentation***

Purchase of Services expenditures, when not endangering the safety of the officer or informant, must be supported by canceled tickets, receipts, lease agreements, etc. If not available, the office head or his immediate subordinate must certify that the expenditures were necessary and justify why supporting documents were not obtained.

HIDTA grantees and resource recipients must document informant identities, actual receipts, and other information that the agency deems appropriate. These records may be maintained as sensitive and for agency use only.

## **6.17 FINANCIAL REPORTING**

Officials requesting HIDTA funds must assist in coordinating the administration of HIDTA funds with their agency's administrative offices, the HIDTA Director, the NHAC, and ONDCP.

### **6.17.1 Federal Financial Report**

HIDTA grantees are required to electronically submit, via the Department of Health and Human Services' Division of Payment Management (DPM) website, Federal Financial Reports (FFR) on a quarterly basis within 30 days after the reporting period. The FFR consists of two reports: the Federal Cash Transaction report (previously PSC-272) and the Federal Status Report (previously SF-269). Failure to submit these reports on a timely basis will result in suspension of payment approvals.

Online access to the DPM website is required to complete both FFRs. Proper internal controls are necessary to ensure that authorized officials from the grantee organization (as described in 200.415) are tracked, and perform separate duties in preparing and certifying financial reports.

### **6.17.2 Request for Reimbursement or Advance**

Grantees are required to submit a Detailed Expenditure Worksheet (DEW), at least quarterly, to request reimbursement. Similarly, details specifying the need for the advance must accompany an advance request. Documentation of how the advance was spent must be submitted within 21 days of use of funds and prior to another advance or reimbursement request. Requests for reimbursement or advances shall be submitted through the HIDTA Director to the NHAC using the FMS. All other provisions for submission of Requests for Reimbursement are contained in the Attachment to the Grant Agreement.

### **6.17.3 Federal Agency Quarterly Expenditure Reporting**

In accordance with the HIDTA MOA, Federal agencies are required to submit a quarterly report of initiative obligations and expenditures to the HIDTA Directors and the National HIDTA Director.

### **6.17.4 Financial Management**

The following information contains portions of direct excerpts from 2 CFR 200.302(a). Adherence to the complete citation of the regulation is required.

Each State must expend and account for the HIDTA award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, states and other grantee's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations and the terms and conditions of the Federal award.

### **6.17.5 Financial Management System**

The HIDTA Financial Management System (FMS) serves as a data collection and

tracking system for ONDCP. It is not the system of record for grantees. Grantee's system of record should meet the requirements listed under 2 CFR 200.302 (b). The HIDTAs and ONDCP are required to use the automated HIDTA FMS to perform the following tasks:

***Budgeting***

- Prepare and submit budget requests
- Review and approve budget requests
- Adjust and track all spending associated with budget requests

***Managing disbursements and grant balances***

- Record and approve reimbursements and advances: HIDTAs that have outstanding discrepancies between FMS and DPM balances shall provide to ONDCP a timeline for reconciling the differences.

***Recording reprogramming entries***

- Submit, review, and approve reprogramming entries.

***Processing grant extensions***

- Submit, review, and approve requests for grant extensions.

***Tracking grant balances***

- Create summary reports for internal use.

***Grant closure***

- Approve grant closure

**6.17.6 Grant Closure and Record Retention**

Upon the conclusion of administering the HIDTA grants, proper grant close out and record retention are required. Submit closeout documents and complete closeout requirements within 90 days after the end of the grant, including final financial reports (FCTR and FSR), compliance with all special conditions, financial reconciliation, and submission of all required deliverables. Upon completion of the closeout requirements, approval of grant closure within the FMS system is necessary to complete the grant file and generate the closeout letter.

All reporting and records should be retained for a period of 3 years from the day the grantee submits its final expenditure or audit, whichever is later.

**6.17.7 Payment Management System (PMS)**

Agencies must use the Payment Management System (PMS) to request payment of grant funds. PMS is managed by the Division of Payment Management Services of the U.S. Department of Health and Human Services (HHS). Immediately after requesting payments in the PMS, and again after the reimbursements are received, agencies or HIDTAs must record the disbursement details in the HIDTA FMS to ensure a current grant balance.

Proof of spending or refunds of payments should be sent back to HHS-DPM within three (3) days. Refer to Remittance instructions provided within the award document.

#### **6.17.8 Conflict of Interest**

Grantees must disclose in writing any potential conflict of interest to ONDCP or the pass-through entity. This disclosure must take place immediately for applicants as well as those with an active ONDCP award. The ONDCP conflict of interest policies apply to sub-awards, as well as contracts, and are as follows:

1. As a non-Federal entity, grantee must maintain written standards of conduct covering conflicts of interest and governing the performance of grantee's employees engaged in the selection, award, and administration of sub-awards and contracts.
2. None of grantee's employees may participate in the selection, award, or administration of a sub-award or contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization considered for a sub-award or contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from sub-recipients or contractors or parties to sub-awards or contracts.
3. If grantee have a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, grantee must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, grantee is unable or appears to be unable to be impartial in conducting a sub-award or procurement action involving a related organization.

#### **6.17.9 Mandatory Disclosures**

Grantees or applicants must disclose, in a timely manner, in writing to ONDCP all violations of Federal criminal law involving fraud, bribery or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award that includes the term and condition outlined in 200 CFR Part 200, Appendix XII "Award Term and Condition for Recipient Integrity and Performance Matters," are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in remedies such as: temporary withholding of payments pending correction of the deficiency, disallowance of all or part of the costs associated with noncompliance, suspension, termination of award, debarment, or other legally available remedies outlined in 2 CFR 200.338 "Remedies for Noncompliance".

#### **6.17.10 Remedies for noncompliance**

The following information contains portions of direct excerpts from the Uniform Guidance. Adherence to the complete citation of the regulation is required.

If a grantee fails to comply with Federal statutes, regulations, or the terms and conditions of the award, ONDCP may impose additional conditions per 2 CFR 200.207. If ONDCP determines that noncompliance cannot be remedied by imposing additional conditions one or more of the following actions may occur per 2 CFR 200.338 (a – f):

1. Temporarily withhold cash payments pending correction of the deficiency;
2. Disallow the use of funds for all or part of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or disbarment proceedings as authorized under 2 CFR Part 180;
5. Withhold further awards for the project or program; or
6. Take other action that may be legally available.

## **6.18 FINANCIAL AUDITS**

### **6.18.1 General**

Financial audits express an opinion on a grantee’s statements of costs claimed in a effort to provide reasonable assurance that said statements are free from material misstatement. Financial audits provide independent review and reasonable assurance on whether a grantee’s financial information is presented fairly, its internal controls are adequate, and the grantee complies with laws and regulations. Specifically, an auditor’s opinion evaluates whether (1) financial information is presented in accordance with established criteria, (2) the grantee has adhered to specific financial compliance requirements, and (3) the grantee’s internal control structure over financial reporting and safeguarding assets is suitably designed and implemented to achieve the control objectives.

### **6.18.2 Single Audit**

This type of audit is commonly referred to as a Single Agency Audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity’s fiscal year in total Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200.

Within the limitations established in 2 CFR 200.425 a reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), are an allowable use of HIDTA funds.

### **6.18.3 Report Copies**

Unless restricted by Federal law or regulation, the auditee must make report copies available for public inspection via the Federal Audit Clearinghouse (FAC). Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information. Failure to submit report copies may result in an increased risk assessment. Courtesy copies may be provided to ONDCP, but are not mandatory.

#### **6.18.4 ONDCP Funded Financial Audits**

In order to obtain information needed to administer the program, ONDCP may fund additional fiscal audits of HIDTA grants. ONDCP-funded audits will comply with applicable Federal statutes and regulations and will meet Federal auditing standards.

##### **6.18.4.1 Audit responses and corrective action plans**

The ONDCP-contracted audits (ONDCP audits) often identify opportunities for improving operations and governance. The auditee is responsible for follow-up and corrective action on all audit findings. Audits can also identify strategies to reduce costs and strengthen controls intended to safeguard assets. These varying scopes and objectives will therefore present many different types of findings and recommendations. It is ONDCP's goal that every audit have a positive result, and audit findings and recommendations present both the grantee and the HIDTA with the opportunity to take positive action and document their efforts to improve operations.

###### **6.18.4.1.1 AUDIT RESPONSE**

The grantee's written response to an audit summarizes its position concerning the draft findings and recommendations. Near the end of the audit, the ONDCP auditor will provide the grantee with a copy of the draft audit report. The auditor will also, as a general rule, schedule a discussion with appropriate officials to go over the tentative findings and recommendations contained in that draft audit report. The grantee will have 30 days from the date the audit report is provided to respond.

*Audit response incorporated in the final report:* If the grantee submits a response letter, the auditor will evaluate the response and determine if a finding or recommendation can be removed or modified. The grantee's response will be embedded into the final audit report and corrections to the report will be made where appropriate.

*Draft reports without a response:* If the grantee does not submit a response letter, ONDCP's auditor will release the final audit report with a statement in the opinion letter and a notation after each finding that the grantee did not submit a written response within the time required.

###### **6.18.4.1.2 CORRECTIVE ACTION PLANS**

All grantees that receive audit reports with recommendations should file a Corrective Action Plan with ONDCP. When preparing the plan, each corrective

action should be described in sufficient detail to describe clearly what corrections have occurred or are planned. For planned actions, the plan should include contact information on who is responsible for implementation and the expected date of completion. The audit response may be used to satisfy this requirement if the response includes clearly labeled corrective actions to be taken.

A Corrective Action Plan should be sent as an email attachment to the ONDCP point of contact for the HIDTA.

## **7. TRAINING**

The HIDTA program training mission derives from the HIDTA program goal to “Improve the efficiency and effectiveness of HIDTA initiatives.” Selective training opportunities, provided in support of HIDTA initiatives and law enforcement agencies within the HIDTA program, will contribute directly toward accomplishing this goal.

### **7.1 PURPOSE**

One of the HIDTA program’s goals is to improve the efficiency and effectiveness of HIDTA initiatives. Some Executive Boards invest significant funding in training and related activities that contribute to accomplishing this goal, which, in turn, enhances the ability of participating agencies to disrupt and dismantle DTOs. This section describes program requirements for the use of HIDTA funds for training.

HIDTA-sponsored and HIDTA-facilitated training shall be reported in PMP.

### **7.2 TRAINING RESPONSIBILITIES**

#### **7.2.1 HIDTA Responsibilities**

Each Executive Board must establish a training initiative as part of its Strategy. The training initiative does not have to be sponsored or led by a law enforcement agency and is not subject to the policy requirement for collocation and commingling of full-time Federal and state/local participants.

Executive Boards are strongly encouraged to fund all training activities in a single training initiative, but may request training-related funding in other initiatives. If training is requested as part of a non-training initiative, the amount of funds and the expected training outputs from the initiative must be specifically identified in the IDBP for that initiative.

Each Executive Board shall designate or ensure the designation of a Training Coordinator who will, at Executive Board direction, work in concert with the HIDTA Director regarding training matters. The position of Training Coordinator may be filled by a HIDTA-funded member of the HIDTA Director’s staff or by an agency representative and may be performed as a collateral duty of another position.

If funding is required for the Training Coordinator position, it shall be requested in the Training Initiative. The responsibilities of the Training Coordinator include:

- Coordinating and facilitating training activities;
- Assessing training needs and requirements for the HIDTA initiatives;
- Coordinating training-related requirements with the NHAC;

- Maintaining a liaison with training components and personnel in law enforcement agencies and community drug prevention programs within the HIDTA's region; and
- Documenting all training activities and statistics for HIDTA program reporting purposes through the HOTT program and PMP.

### **7.2.2 National HIDTA Assistance Center Responsibilities**

Under the direction of ONDCP, the NHAC will serve as the central training information clearinghouse and coordination element for the HIDTA program by:

- Developing and maintaining a catalog of training sources and evaluating and recommending sources of training;
- Assisting training coordinators in coordinating and facilitating training, including assisting in contracting for training courses;
- Developing training courses in areas where they are not available or developing the course in-house if it would be more cost-effective than using other available training resources;
- Collecting 6-month follow-up survey data for all persons attending HIDTA-funded training and entering that information into the PMP database; and
- Conducting training for the HIDTA program, such as HIDTA management, financial management, performance management.

### **7.3 USE OF HIDTA RESOURCES**

First priority for HIDTA program training funds will be for participants of HIDTA initiatives. Any remaining spaces in HIDTA-funded training courses may be used for (in priority order): (1) HIDTA participating agencies; and (2) other law enforcement agencies.

HIDTA-funded training is designed to enhance the skills of the law enforcement agencies across the HIDTA region and must be directly related to drug enforcement or other HIDTA initiative-related duties of the individuals receiving training.

Executive Boards should take advantage of existing training programs and courses, rather than develop or duplicate training that is reasonably available from other sources. HIDTA funds may also be used for other costs related to training (such as travel costs to readily established training course locations) when the law enforcement agency is not able to provide the required funding.

## **8. PROPERTY MANAGEMENT**

### **8.1 PURPOSE**

HIDTA grantees or resource recipients, HIDTA Directors, participating agencies, and initiative participants share responsibility for ensuring that equipment purchased with HIDTA funds is used to the maximum benefit of HIDTA initiatives and that its use complies with all ONDCP requirements pertaining to equipment management. This section describes the minimum standards for meeting those requirements.

### **8.2 GENERAL REQUIREMENTS**

The requirements established in this section apply to all tangible, nonexpendable, personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit at the time of purchase. Each HIDTA grantee or resource recipient that acquires or holds HIDTA-purchased equipment must have a property management system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

If a HIDTA grantee does not have an adequate system for meeting the requirements of this section, the HIDTA Director shall work with the grantee to develop a system that meets these requirements before any equipment can be purchased with HIDTA funds.

HIDTA-purchased equipment shall be retained at the initiative for which it was purchased, unless there are compelling reasons to do otherwise. The HIDTA Director must be notified of the off-site storage of any equipment purchased with HIDTA funds.

### **8.3 USE OF HIDTA-PURCHASED EQUIPMENT**

Equipment purchased with HIDTA funds is intended for use in HIDTA-funded initiatives. Grantees may authorize the use of such equipment in non-HIDTA activities if those activities are consistent with the HIDTA strategy, do not interfere with the work of HIDTA initiatives, and do not become the primary use (or permanent user) of the equipment.

HIDTA Directors are required to coordinate with grantees to establish a mechanism for sharing HIDTA-purchased equipment among HIDTA initiatives and for tracking the location of shared equipment.

If a grantee acquires equipment with HIDTA funds and later ceases to participate in the HIDTA, this equipment must be made available to the HIDTA's Executive Board for use by other HIDTA participants. Additional information regarding handling of equipment purchased with HIDTA funds can be found in 2 CFR 200.313.

### **8.4 EQUIPMENT TRACKING SYSTEM**

#### **8.4.1 Tracking System Required**

Each HIDTA grantee that acquires or holds HIDTA-purchased equipment must maintain

a tracking system to account for all HIDTA-purchased equipment, vehicles, and other items valued at \$5,000 or more at the time of purchase. Grantees may include lower-cost items in this tracking system that may have a high-risk of theft or loss.

#### **8.4.2 Required Information**

Grantee property records shall include for each piece of HIDTA-purchased equipment:

1. A description of the property;
2. A serial number or other identification number;
3. The source of the property (manufacturer);
4. The source of the funding for the property (including the Federal Award Identification Number (FAIN));
5. Title holder (purchasing agency);
6. The acquisition date and the cost of the property (from invoice);
7. The percentage of the purchase price that came from HIDTA funds;
8. The location, use, and condition of the property;
9. Any reported loss, damage, or theft of the equipment; and
10. Any ultimate disposition data including the date of disposal and sale price of the property.

#### **8.5 DEPRECIATION**

Consistent with the above, HIDTAs are encouraged to use the same schedule of depreciation as their fiduciaries for property entered into inventory either because of cost or risk.

#### **8.6 IDENTIFICATION OF EQUIPMENT PURCHASED WITH HIDTA FUNDS**

All equipment purchased with HIDTA funds must be clearly marked as such and have a unique identifier that links the equipment to the HIDTA's inventory tracking systems. Grantees or resource recipients may use their own systems to mark and identify equipment to the extent it meets these requirements.

#### **8.7 INVENTORY REQUIREMENTS**

Grantees that use HIDTA funds to purchase equipment must maintain a current inventory of HIDTA-purchased equipment and must provide that inventory to the HIDTA Director or an ONDCP employee upon request.

HIDTA Directors must be able to provide a copy of each such inventory upon request.

Each HIDTA grantee must conduct a 100-percent physical inventory of HIDTA-purchased

equipment at least every 2 years and provide a copy of that inventory to the HIDTA Director.

As part of the HIDTA's annual internal review, the HIDTA Director shall perform a physical inventory of a sample of equipment purchased by each HIDTA grantee.

### **8.8 DISPOSITION OF EQUIPMENT**

Grantees must notify the HIDTA Director prior to disposing of HIDTA-purchased equipment. Grantees or resource recipients shall document the disposition of any HIDTA equipment and provide that documentation to the HIDTA Director. Instruction for proper disposition of equipment can be found in CFR 200.313.

### **8.9 PROTECTION OF SENSITIVE INFORMATION**

Initiative supervisors shall ensure that all sensitive information is removed from the hard drives of a computer before it leaves the premises for repair or disposal. Removal of the data on the hard drive should be consistent with Department of Defense (DOD) standard 5220.22M or NIST Publication 800-88.

### **8.10 ACCOUNTABILITY FOR EQUIPMENT**

Initiative supervisors shall immediately report any item that is lost, stolen, or otherwise unaccounted for to the respective grantee or resource recipient and the HIDTA Director. The grantee's procedures shall be followed to investigate the loss or theft of any equipment. Documentation of the investigation shall be provided to the HIDTA Director.

### **8.11 EQUIPMENT MAINTENANCE**

Grantees must develop adequate maintenance procedures to keep equipment in good condition.

## **9. ANNUAL BUDGET SUBMISSION REQUIREMENTS**

### **9.1 PURPOSE**

Each year, each HIDTA Executive Board must submit for ONDCP approval a budget package for the next program year. In addition to a detailed budget entered in the FMS, this shall include four closely-related documents that describe the drug trafficking activities in the HIDTA and the measures the Executive Board proposes to address those activities. These are the threat assessment, the strategy, the IDBPs, and the annual report. Collectively, these documents are referred to as the “budget package.” The threat assessment and strategy may be combined into a single comprehensive document. This section provides an overview of each document, the preparation and approval process, and each document’s relationship to the others. Each January, ONDCP will provide detailed instructions to the HIDTA Directors for the completion of each document.

### **9.2 SUBMISSION DUE DATES**

HIDTA program reporting is based on the calendar year.

The threat assessment, strategy, IDBPs, and HIDTA budget (in FMS) are due by June 15<sup>th</sup> of the year preceding the program year to which they pertain.

The annual report for a program year is due to ONDCP by June 15<sup>th</sup> following the end of that program year. The annual report, threat assessment, strategy, any waiver requests, and the methamphetamine reporting memo should be sent by email to ONDCP\_HIDTA@ondcp.eop.gov. IDBPs are prepared in the PMP database and, once the HIDTA notifies the PMP administrators at PMP@wb.hidta.org, PDF copies are provided to ONDCP.

### **9.3 ANNUAL REPORT**

Each Executive Board must produce an annual report that describes its activities, reports its progress implementing the HIDTA Strategy, and documents if and how performance targets for the preceding calendar year were met.

### **9.4 THREAT ASSESSMENT**

The Threat Assessment is an annual analysis of drug trafficking and related activities taking place in the HIDTA region. Its primary purpose is to provide a basis for the development of the strategy by identifying and describing the organizations that engage in the manufacture, cultivation, importation, transportation, or distribution of illegal drugs or the diversion of prescription drugs in the HIDTA region. The threat assessment must specifically identify and describe those drug trafficking activities that affect other parts of the United States. The HIDTA threat assessment may be written at the unclassified level in order to ensure wide distribution, with an appropriately classified supplemental appendix to provide the necessary detail required by this paragraph.

HIDTA threat assessments are primarily concerned with the counties that constitute the HIDTA. Executive Boards may expand the scope of their threat assessments to include other areas if that expansion provides a clearer picture of the factors affecting the HIDTA.

With the approval of their Executive Boards, threat assessments should be shared broadly.

## **9.5 STRATEGY**

The strategy describes the Executive Board's plans to respond to the drug trafficking activities identified in its annual Threat Assessment. Using the two HIDTA program goals as a starting point, each Executive Board will design a Strategy that reflects the drug threats identified in its Threat Assessment and the HIDTA's capacity to confront these threats. Resource constraints may require Executive Boards to prioritize strategic goals.

There must be a clear and direct relationship between the drug trafficking activities and organizations identified in the Threat Assessment and the HIDTA initiatives proposed to diminish those activities. The Strategy should articulate the Executive Board's role in helping Federal, state, local, and tribal agencies shape their drug control efforts to reduce drug trafficking, eliminate duplicative efforts, maximize resources, and improve information and intelligence sharing under the coordinating umbrella of the HIDTA program.

The Strategy must contain the required performance targets specific to each Program goal and any additional performance targets the Executive Board establishes. Section 10 of this document describes the required performance targets.

The Strategy shall include a description of all HIDTA-funded initiatives.

As part of the annual Strategy, each HIDTA Executive Board must certify that its composition complies with the requirements of the ONDCP Reauthorization Act.

## **9.6 INITIATIVE DESCRIPTIONS AND BUDGET PROPOSALS**

Each Executive Board must submit IDBPs identifying the activities that will be undertaken to implement its strategy. These documents must provide sufficient detail for ONDCP to assess whether the proposed initiatives are consistent with the strategy and are likely to achieve the performance targets proposed by the Executive Board, including: (1) an up-to-date description of each Initiative's mission and goals; (2) realistic annual funding needs for each Initiative; and (3) specific quantitative performance targets. The IDBPs are automatically generated by the PMP database from data entered in various screens by staff at each HIDTA location.

The Executive Board may propose new initiatives at any time. To request approval of an initiative outside of the usual budget review period, the Executive Board shall complete an IDBP in the PMP database and request ONDCP approval. The proposal must describe how the new initiative will be funded. Proposing a new initiative may also require submitting a reprogramming request to ONDCP. (See Section 6 for reprogramming requirements.) Requests for new initiatives should be accompanied by a revised Strategy document that reflects the proposed new initiative.

If an initiative undergoes a major change in organization, staffing, or investigative focus, the HIDTA must submit a revised IDBP to ONDCP explaining the change. Revising an initiative may also require submitting a reprogramming request to ONDCP.

### **9.7 ANNUAL BUDGET**

Each Executive Board must ensure a detailed budget is prepared in FMS to fund the proposed initiatives. Budgets must be prepared for each initiative by Award Recipient.

### **9.8 REVISION OF BUDGET AND PROGRAM REQUIREMENTS**

Change in the scope or objective of a HIDTA's program or projects (even if there is no associated budget revision requiring prior approval) requires written approval from ONDCP.

### **9.9 CERTIFICATION OF METHAMPHETAMINE LABORATORY SEIZURE DATA REPORTING**

The ONDCP Reauthorization Act prohibits the ONDCP Director from awarding any HIDTA funds until he/she can “certify that the law enforcement entities participating in the HIDTA program are providing laboratory seizure data to the national clandestine laboratory database at EPIC.” (See Sec. 703(o)(3).)

To enable the Director to meet this requirement, each HIDTA Director must certify in writing by June 15<sup>th</sup> of each year that all law enforcement entities participating in their HIDTA are providing methamphetamine laboratory seizure data to the national clandestine laboratory database/National Seizure System at EPIC. The format of the required certification letter can be found in Appendix III.

## **10. PROGRAM PERFORMANCE**

### **10.1 PURPOSE**

The purpose of this section is to describe the process ONDCP will use to assess the quantitative performance of Executive Boards and the overall performance of the HIDTA program. Each Executive Board must propose initiatives that are based on its respective threat assessment and strategy; must articulate how each initiative's funding request directly addresses the threat; must set specific and realistic performance measures; and must eventually provide specific information on how the funding has enabled each Executive Board to meet its desired outcomes. Using data drawn from the PMP database, ONDCP will assess the performance of each regional HIDTA program and of the National HIDTA program. The information obtained from the PMP system will also assist ONDCP with performance-based funding decisions.

### **10.2 HIDTA PROGRAM GOALS**

Each HIDTA's Strategy must address both HIDTA program goals. ONDCP has established "core performance measures" for all HIDTAs as described in Section 10.4 and will negotiate specific performance targets for these measures with each Executive Board.

### **10.3 INDIVIDUAL HIDTA VISION AND MISSION STATEMENTS**

Each Executive Board is encouraged to develop its own vision and mission statements that reflect and support its program goals. A vision statement is a declaration that articulates the direction the Executive Board is going to take in a specified period to achieve its mission. A HIDTA's vision statement should be shared with, and understood by, all those affected by it. A vision statement will periodically change to keep pace with internal and external events. An example of a vision statement is: "We envision that within 5 years, all HIDTA participating agencies will electronically share sensitive case information."

A mission statement is a management tool that declares the rationale for continuing as a HIDTA. It must support the vision in terms of the core services that the HIDTA funding provides and must tell how it is going to support the vision. All initiatives and their goals and targets must derive from the vision and mission statements.

### **10.4 HIDTA PROGRAM PERFORMANCE MEASURES**

Performance measures are the statistics, indicators, or other metrics used to gauge the performance of an individual HIDTA's or NHAC's operations. Program performance measures include outcome measures, output measures, and efficiency measures. Because there is no highly accurate, timely, and comprehensive information describing key elements of a HIDTA's activities (e.g., the quantity of drugs available in area, the number of DTOs operating in a HIDTA, etc.), ONDCP uses output measures as proxies for outcome measures. Separately, output measures and efficiency measures provide useful and complementary information about program performance. Together, these measures convey a broad picture of how effectively and efficiently a HIDTA operates. ONDCP is

responsible for identifying performance measures that reflect the two HIDTA program goals and ensuring the measures meet the following criteria:

1. Performance measures must be meaningful and clearly related to the HIDTA program goals.
2. The performance measures must relate to something all HIDTAs do.
3. The performance measures should be outcome-oriented, not just a measure of workload.
4. There must be a sound methodology for collecting the information and data necessary for a performance measure.
5. The performance information must be verifiable with reliable data.

ONDCP may add, delete, or revise performance measures as needed to better reflect outcomes for the HIDTA program.

Executive Boards may propose additional performance measures (“Threat Specific Measures”) in addition to the measures required by ONDCP.

### **10.5 PERFORMANCE TARGETS**

The performance measures for all individual HIDTAs should always be identical. However, because the identified threats, geographic size, budgets, and other factors vary from HIDTA to HIDTA, the performance targets for individual HIDTAs will reflect the specific conditions, resources, and mix of activities in each HIDTA. For example, an Executive Board may fund a larger than average number of interdiction initiatives. Consequently, it may expect to disrupt and dismantle fewer DTOs than another Executive Board that focuses on investigative work. However, that same Executive Board may expect relatively more seizures than the Executive Board that focuses on disrupting or dismantling DTOs.

Executive Boards must state their performance targets for each performance measure in the Strategy document submitted to ONDCP as part of the annual budget submission. The targets should reflect the sum of what all HIDTA initiatives expect to accomplish in the upcoming program year, as stated in the IDBPs. In the IDBP, each initiative must project what it expects to accomplish in the upcoming year. In determining an appropriate performance target, the target projections should consider the annual average for the previous 3 years and adjust that figure according to changes in the initiative’s budget, staffing, non-HIDTA resource levels, and any changes to the initiative’s priorities or drug trafficking conditions in the HIDTA. Executive Boards should ensure their performance targets are:

- Specific;

- Measurable;
- Ambitious but attainable;
- Realistic; and
- Time-specific.

The HIDTA Executive Board shall ensure that each HIDTA initiative shall establish annual performance targets.

ONDCP will review the proposed performance targets during the review of the HIDTA's budget submission. If necessary, ONDCP will negotiate revised performance targets for the program year with each HIDTA.

To ensure that the performance expectations are clearly understood, ONDCP will notify each HIDTA Director of the approved annual performance targets as part of the annual budget submission request passback.

Extenuating circumstances may require Executive Boards to review and revise performance targets initially approved by ONDCP. Such changes must be approved by ONDCP.

Finally, Executive Boards receiving supplemental or discretionary funding from ONDCP may be required to revise their performance targets accordingly.

## **10.6 PERFORMANCE MANAGEMENT PROCESS DATABASE**

The primary tool for collecting and generating the information needed to assess performance in the HIDTA program is the PMP database. The PMP was designed to assist ONDCP in assessing the performance of the HIDTA program.

The PMP is a web-based system capable of generating most of the required non-financial information and documents needed for the annual budget submissions to ONDCP and all of the tables required for HIDTA Annual Reports. The PMP was designed to use, as much as possible, data already collected by HIDTAs and to fit seamlessly into the established cycle of annual program reporting requirements.

The PMP database is used to enter common descriptive information about each HIDTA-funded initiative and information specific to what the initiative expects to accomplish in a program year. The information entered for each initiative reflects the type of initiative (i.e., Enforcement, Intelligence and Information Sharing, Resource, Support, Prevention, Treatment, or Management and Coordination Initiative).

During the year, HIDTA Directors must ensure performance data are entered into the PMP database at least quarterly. Reporting in the PMP database must be consistent with the current applicable guidelines and definitions in the PMP User Guide which is available in the PMP database. HIDTA Directors are responsible for ensuring the accuracy of the data entered.

## **10.7 PMP TRAINING AND CERTIFICATION**

Each HIDTA shall ensure that PMP training and updated PMP refresher training is provided annually.

Each HIDTA shall ensure at least one HIDTA staff member has successfully completed the HIDTA PMP certification course.

## **10.8 ASSESSMENT OF PERFORMANCE**

ONDCP's assessment of a HIDTA's program year performance includes a review of the progress towards achieving the performance targets stated in its Strategy for that year. For all core performance measures required by ONDCP, each Executive Board must include in its Annual Report a corresponding table that can be generated from the PMP database. If the table shows that a HIDTA's actual performance for a core performance measure varied by 15 percent or more from the annual performance target, the Annual Report must also include a narrative explaining the variance.

## **10.9 INDEPENDENT AUDIT OF PERFORMANCE**

Performance audits designed to provide assurance of the accuracy and reliability of the data reported in the PMP will be conducted on a select number of HIDTAs each year. Performance audits will be conducted by an independent auditor contracted to ONDCP. The auditor conducting the performance audits will use the Performance Management Process User Guide as a standard for the years of the audits, including as a basis for definitions and reporting of the PMP data. The HIDTA performance audit may be augmented with other ONDCP performance-based inquiries. ONDCP-funded audits will comply with applicable Federal statutes and regulations and will meet Federal auditing standards.

The auditors will assess the reliability of the PMP data entered and determine if there is any associated material weakness or misstatement. An opinion letter will be provided consistent with the Generally Accepted Government Auditing Standards (GAGAS) stating this at the beginning of the audit report. Additionally, the performance audit will note compliance with HIDTA Program Policy and Budget Guidance. In the Performance Audit report, recommendations will be made to improve the reliability of the PMP data entered and best practices that have been observed from other audits. The HIDTA Director will be responsible for implementing recommendations as appropriate and respond to the recommendations via writing for inclusion into the final audit report.

### **10.9.1 Audit responses and corrective action plans**

The ONDCP-contracted performance audits (ONDCP audits) often identify opportunities for improving the PMP process. The audited HIDTA is responsible for follow-up and corrective action, as appropriate, on all audit recommendations. Audits

can also identify methods to ensure reliability in the data entered into PMP. It is ONDCP's goal that every audit that has a recommendation will provide an opportunity for the HIDTA to take positive action and to document their efforts to improve operations.

### **10.9.2 Audit Response**

The HIDTA's written response to an audit summarizes its position concerning the draft recommendations. At the conclusion of the audit, the ONDCP auditor will provide the HIDTA with a debriefing of what they observed, either telephonically or in-person. A draft audit report will be provided to the HIDTA and to ONDCP for review and comment. The HIDTA will have 30 days to respond from the date the draft audit report is provided.

### **10.9.3 Audit response incorporated in the final report:**

The performance audit contractor will incorporate edits as provided by the HIDTA and ONDCP, as applicable. The auditor will evaluate the response from the HIDTA and determine if a recommendation can be removed or modified. The HIDTA's response will be embedded into the final audit report as applicable and where appropriate. Per 6.18.4.1 Audit Responses and Corrective Action Plans, all HDTAs that receive audit reports with recommendations shall file a Corrective Action Plan with ONDCP. When preparing the plan, each corrective action shall be described in sufficient detail to describe clearly what corrections have occurred or are planned for the recommendations. The audit response from the HIDTA may be used to satisfy this requirement if the response includes clearly labeled corrective actions to be taken. A Corrective Action Plan shall be sent as an email attachment to the ONDCP point of contact for the HIDTA.

## **11. PROGRAM REVIEW**

### **11.1 PURPOSE**

ONDCP and HIDTA Executive Boards have a shared responsibility for oversight within the HIDTA program. ONDCP is responsible for assessing the performance of each HIDTA and determining how that performance affects the overall HIDTA program. HIDTA Executive Boards are responsible for assessing the overall performance of each of the HIDTA's initiatives. These responsibilities require a thorough review process that examines the full range of HIDTA operations. This section outlines the review process.

### **11.2 OVERVIEW**

Program reviews address the HIDTA's:

1. Success in meeting performance targets negotiated with ONDCP;
2. Effectiveness in accomplishing its mission;
3. Efficiency in the use of HIDTA resources;
4. Accountability in the use of HIDTA resources;
5. Compliance with rules, regulations, and ONDCP program policy and guidance; and
6. Program weaknesses and best practices.

Reviews of individual HDTAs will be conducted through:

1. Annual reviews by HIDTA Executive Boards and ONDCP of the budget submission (Threat Assessment, Strategy, Initiative Description and Budget Proposals, and Annual Report) each HIDTA submits;
2. Internal program reviews that each HIDTA is required to conduct annually; and
3. Periodic ONDCP-led reviews conducted onsite at the HIDTA's location.

### **11.3 ONDCP ON-SITE REVIEWS.**

ONDCP onsite reviews are led by ONDCP staff and assisted by subject matter experts. The reviews address the six areas listed above in the overview. Prior to the review, the review team will conduct a thorough examination of documents submitted by the HIDTA as part of their annual budget submissions, audit, and financial reports, Executive Board meeting minutes, the policies and procedures of the HIDTA to be reviewed, and other applicable documentation. Reviews will consist of interviews with Executive Board members, HIDTA staff, grantees, and initiative participants. Additionally, documents such as financial and property records may also be examined. Upon the completion of the review, a debriefing will be provided to the HIDTA, followed by a written report.

## **Appendix I**

### **HIDTA Program Authorizing Statute**

**OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 2006**

**Public Law 109-469 109th Congress**

**TITLE III--HIGH INTENSITY DRUG TRAFFICKING AREAS**

**SEC. 301. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

Section 707 <<NOTE: 21 USC 1706.>> is amended to read as follows:

**``SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

**``(a) Establishment.--**

``(1) In general.--There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program (in this section referred to as the `Program').

``(2) Purpose.--The purpose of the Program is to reduce drug trafficking and drug production in the United States by--

``(A) facilitating cooperation among Federal, State, local, and tribal law enforcement agencies to share information and implement coordinated enforcement activities;

``(B) enhancing law enforcement intelligence sharing among Federal, State, local, and tribal law enforcement agencies;

``(C) providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

``(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

**``(b) Designation.--**

``(1) In general.--The Director, in consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area.

``(2) Activities.--After making a designation under paragraph (1) and in order to provide Federal assistance to the area so designated, the Director may--

``(A) obligate such sums as are appropriated for the Program;

``(B) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

``(C) take any other action authorized under section 704 to provide increased

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Federal assistance to those areas; and

“(D) coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State, local, and tribal officials.

“(c) Petitions for Designation.—

The Director shall establish regulations under which a coalition of interested law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area. Such regulations shall provide for a regular review by the Director of the petition, including a recommendation regarding the merit of the petition to the Director by a panel of qualified, independent experts.

“(d) Factors for Consideration.—

In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

“(1) the area is a significant center of illegal drug production, manufacturing, importation, or distribution;

“(2) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

“(3) drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

“(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

“(e) Organization of High Intensity Drug Trafficking Areas.—

“(1) Executive <<NOTE: Establishment.>> board and officers.--To be eligible for funds appropriated under this section, each high intensity drug trafficking area shall be governed by an Executive Board. The Executive Board shall designate a chairman, vice chairman, and any other officers to the Executive Board that it determines are necessary.

“(2) Responsibilities.--The Executive Board of a high intensity drug trafficking area shall be responsible for—

“(A) providing direction and oversight in establishing and achieving the goals of the high intensity drug trafficking area;

“(B) managing the funds of the high intensity drug trafficking area;

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“(C) reviewing and approving all funding proposals consistent with the overall objective of the high intensity drug trafficking area; and

“(D) reviewing and approving all reports to the Director on the activities of the high intensity drug trafficking area.

“(3) Board representation.--None of the funds appropriated under this section may be expended for any high intensity drug trafficking area, or for a partnership or region of a high intensity drug trafficking area, if the Executive Board for such area, region, or partnership, does not apportion an equal number of votes between representatives of participating Federal agencies and representatives of participating State, local, and tribal agencies. Where it is impractical for an equal number of representatives of Federal agencies and State, local, and tribal agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph.

“(4) No agency relationship.--The eligibility requirements of this section are intended to ensure the responsible use of Federal funds. Nothing in this section is intended to create an agency relationship between individual high intensity drug trafficking areas and the Federal Government.

“(f) Use of Funds.—

The Director shall ensure that no Federal funds appropriated for the Program are expended for the establishment or expansion of drug treatment programs, and shall ensure that not more than 5 percent of the Federal funds appropriated for the Program are expended for the establishment of drug prevention programs.

“(g) Counterterrorism Activities.--

“(1) Assistance authorized.--The Director may authorize use of resources available for the Program to assist Federal, State, local, and tribal law enforcement agencies in investigations and activities related to terrorism and prevention of terrorism, especially but not exclusively with respect to such investigations and activities that are also related to drug trafficking.

“(2) Limitation.--The Director shall ensure--

“(A) that assistance provided under paragraph (1) remains incidental to the purpose of the Program to reduce drug availability and carry out drug-related law enforcement activities; and

“(B) that significant resources of the Program are not redirected to activities exclusively related to terrorism, except on a temporary basis under extraordinary circumstances, as determined by the Director.

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## **Appendix II**

### **Petition for Designation - Regulation**

**EXECUTIVE OFFICE OF THE PRESIDENT  
Office of National Drug Control Policy  
High Intensity Drug Trafficking Areas;  
Petitions for Designation**

**AGENCY:** Office of National Drug Control  
Policy.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Office of National Drug Control Policy Reauthorization Act of 2006, Public Law 109–469, section 707(c), the Director, National Drug Control Policy is establishing regulations under which interested coalitions of law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area.

*Public Comment:* On June 4, 2007 (Volume 72, Number 106, Notices Page 30862–30864), the Executive Office of the President, Office of National Drug Control published Notice of its intent to issue this regulation. A 60-day public comment period was established. The June 4 Notice stated that any written comments must be received by ONDCP via electronic mail or facsimile on or before August 3, 2007. In addition, an ONDCP staff point of contact was listed to provide additional information as appropriate. ONDCP did not receive any comments. Therefore, ONDCP is issuing this Notice of the agency's intent to publish a regulation identical to the document published on June 4, 2007.

**SUPPLEMENTARY INFORMATION:** The Anti-Drug Abuse Act of 1988, the ONDCP Reauthorization Act of 1998, and the ONDCP Reauthorization Act of 2006 authorize the Director of the Office of National Drug Control Policy (ONDCP) to designate areas within the United States that exhibit serious drug trafficking problems and harmful impact of other areas of the country as High Intensity Drug Trafficking Areas (HIDTA). The HIDTA Program provides federal resources to those areas to help eliminate or reduce drug trafficking and its harmful consequences. Law enforcement organizations within HIDTAs assess drug trafficking problems and design specific initiatives to reduce or eliminate the production, manufacture, transportation, distribution, and use of illegal drugs and money laundering.

When designating a new HIDTA or adding counties to existing HIDTAs, the Director of ONDCP consults with the Attorney General, Secretary of Homeland Security, Secretary of Treasury, heads of national drug control agencies, and the appropriate governors, and considers the extent to which—

- (1) The area is a significant center of illegal drug production, manufacturing, importation, or distribution;
- (2) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;
- (3) Drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and
- (4) A significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

The HIDTA Program helps improve the effectiveness and efficiency of drug control efforts by facilitating cooperation among drug control organizations through resource and information sharing, collocation, and implementing joint initiatives. HIDTA funds help Federal, State, local, and tribal law enforcement organizations invest in infrastructure and joint initiatives to confront drug trafficking organizations.

Each HIDTA is governed by its own executive board comprised of Federal, State and local law enforcement officials from the designated HIDTA region. The executive boards facilitate interagency drug control efforts to eliminate or reduce drug threats.

HIDTA-designated counties comprise approximately 13 percent of U.S. counties, and are present in 43 states, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia. The following 28 areas are designated HIDTAs:

*1990:* Houston, Los Angeles, New York/New Jersey, South Florida, and Southwest Border (California, Arizona, New Mexico, and South and West Texas).

*1994:* Washington/Baltimore (Maryland, Virginia, and District of Columbia) and Puerto Rico/U.S. Virgin Islands.

*1995:* Atlanta, Chicago, and Philadelphia/Camden.

*1996:* Rocky Mountain (Colorado, Montana, Utah, and Wyoming), Gulf Coast (Alabama, Louisiana, and Mississippi), Lake County (Indiana), Midwest (Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota) and Northwest (Washington).

*1997:* Michigan and Northern California.

*1998:* Appalachia (Kentucky, Tennessee, and West Virginia), Central Florida, Milwaukee, and North Texas (Texas and Oklahoma).

*1999:* Central valley California, Hawaii, New England (Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, and Vermont), Ohio, and Oregon.

*2001:* North Florida and Nevada.

To date, counties seeking HIDTA designation have communicated their interest to ONDCP in a variety of manners. Currently, no formal process or regulation exists outlining the application and selection process.

Historically, law enforcement coalitions interested in obtaining designation as HIDTAs have submitted drug-related threat assessments for their counties which typically include a narrative analysis of the drug threat and statistical information related to the four statutory criteria. The proposed rule is intended to create a better coordinated and more meaningful process for reviewing applications. The rule sets forth a general process that enables interested coalitions of law enforcement agencies to submit petition for designation as a HIDTA. The criteria by which ONDCP will evaluate the petitions are set forth in this regulation. In addition, the proposed rule requires ONDCP to review submitted petitions on a regular basis.

### **Sec. 1 General Provisions**

(a) This regulation contains the rules that the Office of National Drug Control Policy (Office) follows in processing petitions for designation as a High Intensity Drug Trafficking Area (HIDTA), in accordance with the ONDCP Reauthorization Act of 2006, Public Law No. 109-469.

(b) Establishment—

(1) In General—There is established in the Office a program known as the High Intensity Drug Trafficking Areas Program (in this regulation referred to as the “Program”).

(2) Purpose— The purpose of the Program is to reduce drug trafficking and drug production in the United States by—

(A) Facilitating cooperation among Federal, State, local, and tribal law enforcement agencies to share information and implement coordinated enforcement activities;

(B) Enhancing law enforcement intelligence sharing among Federal, State, local, and tribal law enforcement agencies;

(C) Providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

(D) Supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

(c) Designation—

(1) In General—The Director, in consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area.

(2) Activities— After making a designation under paragraph (1) and in order to provide Federal assistance to the area so designated, the Director may—

(A) Obligate such sums as are appropriated for the Program; (B) Direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(C) Take any other action authorized under the Office of National Drug Control Policy Reauthorization Act of 2006 to provide increased Federal assistance to those areas; and

(D) Coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State, local, and tribal officials.

(3) Factors for Consideration — In considering whether to designate an area as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(A) The area is a significant center of illegal drug production, manufacturing, importation, or distribution;

(B) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(C) Drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

(D) A significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

### **Sec. 2 Instructions for Petitions**

(a) A coalition of interested law enforcement agencies from an area may petition for designation as a HIDTA.

(b) Petitions must specify the geographical area for which HIDTA designation is requested. Areas are designated by county, therefore, such areas must be identified in the petition.

(c) Petitions must state specifically which law enforcement agencies are making the petition, a responsible official for each agency making the petition, and a point of contact for the coalition of interested law enforcement agencies.

(d) Petitions must include an assessment of the threat of illegal drugs in the area for which HIDTA designation is requested and must specifically respond to each of the following four requirements:

(1) The area is a significant center of illegal drug production, manufacturing, importation, or distribution;

(2) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) Drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

(4) A significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(e) Each of the requirements in Section 2(d) must be addressed and justified with sufficient information/ documentation for each county proposed in the petition.

(f) If the petition proposes to designate additional counties to an already established HIDTA region, the petition shall include a letter from the Chairman of that HIDTA’s Executive Committee indicating that the Executive Committee has reviewed the petition and sets forth its position related to the petition for designation.

(g) Petitions may be submitted to the Executive Office of the President, Office of National Drug Control Policy, Office of State, Local and Tribal Affairs, Washington, DC 20503 via facsimile at (202) 395-6721 or electronic mail at *ondcp\_hidta@ondcp.eop.gov*.

**Sec. 3 Processing of Petitions**

(a) Acknowledgements of Petitions. Upon receipt of a petition, the Office shall send an acknowledgement letter to the requester to confirm receipt of the petition and provide an assigned number for further reference.

(b) Petitions will be reviewed by the Office on a regular basis. The review will include a recommendation regarding the merit of the petition to the Director by a panel of qualified, independent experts who are designated by the Director.

(c) Notification of merit of petition. After the review is completed the requestor will be notified in writing regarding the disposition of the petition.

(d) The Director, Office of National Drug Control Policy, is solely responsible for making designation and funding decisions relating to the HIDTA Program.

**Michael K. Gottlieb,**

*Assistant General Counsel, Office of National Drug Control Policy.*

[FR Doc. E7-16174 Filed 8-15-07; 8:45 am]

**BILLING CODE 3180-02-P**

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## **Appendix III**

### **Methamphetamine Lab Reporting Certification**

Date: \_\_\_\_\_

To: National HIDTA Director  
Office of State, Local, and Tribal Affairs  
Office of National Drug Control Policy

Subject: Reporting of Methamphetamine Laboratory Seizures to EPIC

As required by Section 301(o)(3) of the Office of National Drug Control Policy Reauthorization Act of 2006, PL 109-469, this is to certify that all law enforcement entities participating in the \_\_\_\_\_ HIDTA are providing methamphetamine laboratory seizure data to the national clandestine laboratory database/National Seizure System at the El Paso Intelligence Center.

\_\_\_\_\_

Director  
\_\_\_\_\_ HIDTA

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## **APPENDIX IV**

### **HIDTA Program Glossary**

## Glossary

<u>Award</u>	Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, and receives or administers in the form of grants.
<u>Criminal Intelligence</u>	The product of the analysis of raw information related to crimes or crime patterns with respect to an identifiable person or group of persons in an effort to anticipate, prevent, or monitor possible criminal activity.
<u>Dissemination (of Intelligence)</u>	The process of distributing analyzed intelligence in a timely fashion utilizing certain protocols in the most appropriate format to those in need of the information to facilitate their accomplishments of organizational goals.
<u>Equipment</u>	Tangible property (including software) that has a useful life more than 1 year and has a per-item cost above the lesser of: 1) \$5,000, or 2) the threshold amount determined by the purchasing entity for classifying all its equipment and property.
<u>Expenditure</u>	An outlay of HIDTA program funds.
<u>Extension</u>	A change in the performance period to allow a longer period of time over which grant money can be spent.
<u>Federal Law Enforcement Agency</u>	For purposes of the HIDTA program, a Federal law enforcement agency includes the: Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); Immigration and Customs Enforcement (ICE); Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); U.S. Attorneys (USA); Customs and Border Protection (CBP); U.S. Postal Inspection Service; U.S. Coast Guard; Criminal Investigation Service of the Internal Revenue Service (IRS/CI); and law enforcement components of the U.S. Forest Service and the National Park Service.
<u>Federal Register</u>	A daily publication of the U.S. Federal government that issues proposed and final administrative regulations of Federal agencies.

<p><u>Fiduciary</u></p>	<p>A non-Federal entity designated to handle the financial transactions (accounts receivable and accounts payable) for entities participating in a HIDTA. A fiduciary serves as an independent “bookkeeping” office to receive and disburse HIDTA grant funds to state and local agencies, and sometimes Federal agencies. A fiduciary is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to Federal programs.</p>
<p><u>Grant Agreement</u></p>	<p>A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with <a href="#">31 U.S.C. 6302</a>, 6304:</p> <p>(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see <a href="#">31 U.S.C. 6101(3)</a>); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;</p> <p>(b) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.</p> <p>Federal agencies receive “transfers.”</p>
<p><u>Grantee</u></p>	<p>The government, institution of higher education, or other entity to which a HIDTA program grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity (e.g., city government) even if only a particular component of the entity (e.g., the police department) is designated in the grant award document. Grantees sometimes act as a fiduciary for other participants in a HIDTA.</p>
<p><u>Initiative</u></p>	<p>Activities that implement portions of a HIDTA’s Strategy as opposed to an organization of activities/investigative efforts.</p>
<p><u>Initiative commander or supervisor</u></p>	<p>A person appointed to lead a HIDTA initiative.</p>

<u>Intelligence</u>	Information compiled and analyzed to determine its meaning and relevance for efforts to anticipate, prevent, impede, or monitor criminal activity.
<u>Memorandum of Agreement (MOA)</u>	The MOA between ONDCP and a Federal agency is the equivalent of the Grant Letter provided to the state or local grant recipient.
<u>NHAC</u>	National HIDTA Assistance Center. This center provides accounting assistance and training services to HIDTA program participants.
<u>Non-Federal Entity</u>	A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
<u>Obligations</u>	When used in connection with a non-Federal entity's utilization of funds under a Federal award, obligations means orders placed for property and services, contracts, and subawards made, as well as similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.
<u>Office of National Drug Control Policy (ONDCP)</u>	ONDCP is the office established within the Executive Office of the President of the United States to develop and coordinate the Nation's anti-drug policy. ONDCP also administers the HIDTA program.
<u>Parent agency</u>	The employer of personnel assigned to a HIDTA initiative.
<u>Participating agency</u>	A Federal, state, or local agency or other entity that takes part in a HIDTA initiative by providing staff or in-kind resources.
<u>Pass-through entity</u>	A non-Federal entity that provides a sub-award to a sub-recipient to carry out part of a Federal program.
<u>Payment Management System (PMS)</u>	A web-based program that allows grant recipients to request payments online (although supporting documents must still be sent to NHAC).
<u>Period of Performance</u>	The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award.

<u>Program Income</u>	Gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.
<u>Reimbursable agreement</u>	An official agreement between two HIDTA participating agencies in which one agency agrees to pay a second agency for goods acquired or services provided.
<u>Reprogramming</u>	The shifting of budget amounts between previously approved activities or cost categories.
<u>Recipient</u>	A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.
<u>Sub-award</u>	An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity.
<u>Subrecipient</u>	A non-Federal entity that receives a sub-award from a pass-through entity to carry out part of a Federal program.
<u>Supplant</u>	The use of HIDTA or other federal funds by a state or local agency in lieu of state or local funds that have been, or would have been provided, for the same purpose.
<u>Task force</u>	A group of law enforcement and investigative people who work together to carry out an initiative. Task force members remain employees of their respective agencies.
<u>Transfer</u>	To move HIDTA program funds from ONDCP to another Federal entity (e.g., DEA) to carry out HIDTA-program activities.

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## **Appendix V**

### **FAPO RISK ASSESSMENT TOOL**

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## **Appendix VI**

# **AGA CONTRACTOR vs. SUBRECIPIENT CHECKLIST**

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