

**Department of Emergency and Military Affairs,  
Division of Emergency Management,  
State of Arizona**

**AGREEMENT FOR HAZARD MITIGATION  
ASSISTANCE PROGRAMS  
for  
Sub-recipients**

**AGREEMENT FOR HAZARD MITIGATION ASSISTANCE PROGRAMS  
(Sub-recipients)**

This Agreement between the Department of Emergency and Military Affairs, Division of Emergency Management, State of Arizona (“Division”), and **Cochise County Emergency Management** (“Applicant”) shall be effective on the date signed by both parties. This agreement shall apply to all Hazard Mitigation Assistance (HMA) funds provided by the State to the Applicant as a result of **PDM-PL-09-AZ-2015-003** for **EMF-2016-PC-0003(1)**.

The designated representative of the Applicant certifies that:

1. He/She has legal authority, as outlined in the designation form, to apply for assistance on behalf of the Applicant.
2. The Applicant is an eligible entity (“eligible entity” is not defined in this regulation) as defined in 44 CFR Section 206.434(a) for Hazard Mitigation Grants Program (HMGP) and 44 CFR Section 79.6(a) for Flood Mitigation Assistance (FMA). For HMGP and the Pre-Disaster Mitigation (PDM) Program, see 44 CFR Section 206.2(a)(16) for a definition of local governments.
3. Any change to the Applicant’s designated representative or their contact information must be provided to Division in writing.
4. The Applicant shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving Federal HMA funds. The Division does manage or oversee the applicant’s project(s).
5. The Applicant understands this is a reimbursement program and the Applicant must expend its own funds for the approved project prior to being reimbursed by the Division. Partial payments can be processed as work is completed and costs expended. Final payment will be made after work is completed and claimed costs have been audited.
6. The Applicant shall establish and maintain a proper accounting system to record expenditures of HMA funds in accordance with generally accepted accounting standards or as directed by the Division’s Governor's Authorized Representative (GAR) or Alternate GAR to ensure compliance with audit requirement. (R8-2-316)
7. The Applicant shall, upon request of the GAR (or State Hazard Mitigation Officer), cooperate with Division personnel in performing interim and/or final inspections of the project site.
8. The Applicant shall comply with all applicable current codes and standards, including but not limited to fire, building and construction.

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9. The Applicant shall comply with all applicable provisions of State and Federal laws and regulations in regard to procurement of goods and services and to contracts including, but not limited to: A.A.C. Title 2, Ch.7.
10. The Applicant shall comply with all existing State and Federal laws, rules or requirements or those enacted during the duration of this Agreement, including those involving the environment (National Environmental Protection Act).
11. The Applicant shall comply with provisions of the Hatch Act limiting the political activities of public employees.
12. The Applicant must comply, as applicable, provisions of the Davis-Bacon Act relating to labor standards.
13. The Applicant shall comply with applicable flood insurance purchase requirements required by the Arizona Department of Water Resources Floodplain Management Program.
14. The Applicant shall not enter into cost-plus-percentage-of-cost contracts for completion of disaster restoration or repair work. A cost-reimbursement contract may be used only if a determination is made in writing that such contract is likely to be less costly to this state than any other type or that it is impracticable to obtain the materials, services or construction required except under such a contract. (ARS § 41-2544)
15. In accordance with the A.A.C. R2-7-C907, the Applicant shall not enter into any contract with any party that is debarred or suspended from participating in State or Federal assistance programs.
16. The Applicant, as outlined in 44 CFR Section 13.24 and 2 CFR Section 215.23., shall comply with cost-sharing requirements of State and Federal HMA; specifically, that Federal assistance is limited to the amount specified by the grant award amount. The Applicant is responsible for any and all remaining costs over the awarded amount. To meet cost-sharing requirements, the non-Federal contributions must be reasonable, allowable, allocable, and necessary under the grant program and must comply with all Federal requirements and regulations.
17. In accordance with the provisions of 31 U.S.C. § 1352, and implementing regulations at 44 CFR Part 18, the Applicant is responsible for providing the State agencies and subgrantees, contractors and subcontractors under this contract the requisite “Certification Regarding Lobbying” and “New Restriction on Lobbying” (44 C.F.R. Part 18 Appendix A) for each grant. The Applicant is responsible for filing these certification and disclosure forms with the State.
18. In accordance with the Drug Free Workplace Act of 1988 and implementing regulations, the Applicant will provide the State a “Certification Regarding Drug-Free Workplace Requirements”.

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19. HMA Federal funds, or funds used to meet HMA cost-share requirements, may not be used as a cost share for other Federal funds, for lobbying, or intervention in Federal regulatory or adjudicatory proceedings. Other Federal funds may not be used as a cost share for HMA Federal funds, or funds used to meet HMA cost-share requirements.
20. In general, the non-Federal cost-share requirement may not be met with funds from other Federal agencies; however, authorizing statutes explicitly allow some Federal funds to be used as a cost share for other Federal grants. Federal funds that are used to meet a non-Federal cost-share requirement must meet the purpose and eligibility requirements of both the Federal source program and the HMA grant program.
21. Applicants must avoid conflicts of interest. Applicants must comply with the procurement guidelines at 44 CFR Section 13.36, which require Applicants to avoid situations in which local officials with oversight authority might benefit financially from the grant disbursement.
22. Applicants shall not use HMA funds as a substitute for other available program authorities. Available program authorities include other FEMA programs (e.g., Individual Assistance and Public Assistance) and programs under other Federal agencies, such as the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service. The State and/or FEMA may disallow or recoup amounts that duplicate other authorities.
23. Applicants shall not use HMA funds to duplicate funds received by or available to Applicants or sub-applicants from other sources for the same purpose. Examples of other sources include insurance claims, other assistance programs (including previous project or planning grants and from HMA programs), legal awards, or other benefits associated with properties or damage that are subject of litigation.
24. The Applicant shall use HMA funds solely for the purposes for which these funds are provided and as approved by the GAR.
25. The Applicant shall return to the State, within 60 days of such request by the GAR, any partial reimbursement not supported by audit or other Division review of documentation maintained by the Applicant.
26. The Applicant understands and will abide by completing all work within the designated grant's Period Of Performance (POP).
27. Applicant must submit requests for time extensions in writing 90 days prior to work completion deadline date. Requests must demonstrate extenuating circumstances or unusual project requirements supporting the request and include a projected completion date and revised project completion timeline. Extensions may be granted, modified, or denied by either the State or FEMA.

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28. The Applicant must conform to 44 CFR Parts 9 and 10, and with all applicable EHP laws, implementing regulations, and EOs, such as the NEPA, the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), EO 11988 (Floodplain Management), EO 11990 (Protection of Wetlands), and EO 12898 (Environmental Justice).
29. Applicants for FMA grants must currently be participating in the NFIP, and not withdrawn or suspended, to be eligible to apply for grant funds. Properties for FMA funding must be NFIP insured at the time of the application submittal. Flood insurance must be maintained for the life of the structure.
30. Mitigation activities must adhere to all relevant statutes, regulations, and requirements, including:
  - a. Sections 203 (PDM Program) and 404 (HMGP) of the Stafford Act;
  - b. Section 1366 (FMA) of the NFIA;
  - c. Section 322 of the Stafford Act (Mitigation Planning);
  - d. Section 324 of the Stafford Act (Management Costs);
  - e. NHPA;
  - f. NEPA;
  - g. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
  - h. Floodplain Management and Protection of Wetlands (44 CFR Part 9);
  - i. Environmental Considerations (44 CFR Part 10, NEPA, and ESA);
  - j. Coastal Barriers Resources Act (CBRA; 44 CFR Part 206, Subpart J);
  - k. Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (44 CFR Part 13);
  - l. Uniform Administrative Requirements for Grants and Agreements with Institutions of
  - m. Higher Education, Hospitals, and other Non-Profit Organizations (2 CFR Part 215);
  - n. Floodplain Management (44 CFR Part 60);
  - o. Flood Mitigation Grants (44 CFR Part 79);
  - p. Property Acquisition and Relocation for Open Space (44 CFR Part 80);
  - q. Hazard Mitigation Planning (44 CFR Part 201);
  - r. Hazard Mitigation Grant Program (44 CFR Part 206, Subpart N);
  - s. Management Costs (44 CFR Part 207);
  - t. Cost Principles for Educational Institutions (2 CFR Part 220, OMB Circular A-21); Cost Principles for State, Local, and Indian Tribal Governments (2 CFR Part 225, OMB Circular A-87); Cost Principles for Nonprofit Organizations (2 CFR Part 230, OMB Circular A-122);
  - u. OMB Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs;
  - v. OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations;
  - w. Federal Acquisition Regulations (FAR) Subpart 31.2, Contracts with Commercial Organizations; and
  - x. Other applicable Federal, State, Indian Tribal, and local laws, implementing regulations, and EOs (e.g., EO 11988, EO 11990).

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31. None of the provisions of the Agreement may be waived, changed or altered except in writing signed by both parties.
32. Pursuant to A.R.S. § 41-2586, the Division is not authorized to indemnify Contractor.
33. Every payment obligation of the Division under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Division or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Division or any other agency of the State of Arizona in the event this provision is exercised, and neither the Division nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
34. Pursuant to A.R.S. §§ 35-214 and 35-215, the Contractor shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, the Contractor shall produce the original of any or all such records at the offices of the Division.
35. The requirements of A.R.S. § 38-511 apply to this Agreement. The Division, may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Division is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of Contractor with respect to the subject matter of this Agreement.
36. Contractor shall comply with Arizona Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, or national origin not mentioned in Order shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
37. Contractor assigns to the Division any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Contractor toward fulfillment of this Agreement.
38. This Agreement shall be construed in accordance with the laws of the State of Arizona and applicable federal program laws, Executive Orders, regulations, OMB Circulars, and FEMA policies and guidance, including, but not limited to: 44 CFR Parts 13 and 206, and the Robert T. Stafford Disaster Relief & Emergency Assistance Act (42 U.S.C. § 5189).

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39. The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.
40. Applicant shall submit quarterly performance and financial status reports following the initial grant award even if no work has been initiated nor cost incurred. The Applicant shall submit quarterly performance and financial status reports thereafter until the grant ends. Reports are due on: April 15, July 15, October 15, and January 15. Applicant shall further provide quarterly and closeout information as may be required by FEMA.
41. Applicant shall submit a final performance and financial status report, a request to close the program, and any other required forms and certifications within 90 days of completion of grant activities.
42. Monitoring - After the subgrant is awarded, the State and Applicant are required to monitor and evaluate the progress of the mitigation activity in accordance with the: Approved original scope of work (SOW) and budget; Administrative requirements of 44 CFR Part 13; and Any applicable State requirements.
43. The Applicant can be reimbursed upon review of the requested amount and supporting documentation, also, a site visit will be conducted. If all appropriate documentation is in order, the Applicant will be reimbursed up to 65% of eligible costs. If there are questions or concerns, the State will work with the Applicant to ensure everything is in order before the reimbursement is made. The final Federal 10% of the subgrant will be paid upon final inspection and audit to ensure the project is in compliance with grant requirements.
44. Closeout - Upon project completion, the Applicant is required to close out the subgrant or grant in accordance 44 CFR Section 13.50 (Closeout). The project file should document that the: Approved SOW was fully implemented; All obligated funds were liquidated and in a manner consistent with the approved SOW; All environmental compliance measures or mitigations were implemented; The project was implemented in a manner consistent with the grant or subgrant agreement; submitted the required quarterly financial and performance reports; and The grant and subgrant were closed out in accordance with the provisions outlined in Part VII, C and D.

