

**2008 LEGISLATIVE PRE-DISASTER MITIGATION GRANT PROGRAM**  
**Additional Federal and State Requirements**

The requirements in this document provide a summary of some of the key federal and state requirements which apply to these grant funds.

1. **Federal Guidance Document:** The Sub-grantee must comply with all applicable requirements in the Federal Emergency Management Agency program guidance document applicable to the Federal Fiscal Year 2008 Pre-Disaster Mitigation Grant Program titled “Pre-Disaster Mitigation (PDM) Program Guidance”. A copy of this guidance document is available from the following Federal Emergency Management Agency website: <http://www.fema.gov/library/viewRecord.do?id=3029>.
2. **Federal Regulations:** The Sub-grantee shall comply with the most recent version of the following federal Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to U.S. DHS mitigation grants are listed below:
  - A. Administrative Requirements:
    - 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreement to State and Local Governments
    - 2 CFR Part 215, Uniform Administrative Requirements for Grants and Cooperative Agreement with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)
  - B. Cost Principles:
    - 2 CFR Part 225, Cost Principles For State, Local, and Indian Tribal Governments (OMB Circular A-87)
    - 2 CFR Part 220, Cost Principles For Educational Institutions (OMB Circular A-21)
    - 2 CFR Part 230, Cost Principles For Non-profit Organizations (OMB Circular A-122)
    - 48 CFR Part 31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations
  - C. Audit Requirements:
    - OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations.
3. **Federal Assurances and Special Conditions:** The Sub-grantee shall comply with the requirements in the Grant Award and Grant Agreement Articles in **Attachment A** of this document and the applicable federal Assurances in **Attachment B** of this document. Both Attachment A and Attachment B are fully incorporated herein.
4. **Federal Procurement and Contracting Requirements:** A Sub-grantee is required to follow its own procurement procedures **as long as those procedures meet or exceed the federal procurement standards established in 44 CFR 13.36**. A summary of some of these federal procurement standards is included in Attachment C of this document.
5. **Interest Income:** A Sub-grantee shall promptly, but at least quarterly, remit interest earned on advanced grant funds to the U.S. Department of Homeland Security. The Sub-grantee may keep interest earned, up to \$100 per fiscal year for administrative expenses.
6. **Requirements Applicable to Property/Equipment Purchased Using Grant Funds:** For all tangible, nonexpendable, personal property having a per unit cost of more than \$5,000 acquired in whole or in part with federal grant funds, the Sub-grantee must comply with the requirements specified in 44 CFR 13.32 summarized in part below:
  - A. Maintain records that include the following:
    - i. A description of the property;
    - ii. Manufacturer's serial number or other identification number;
    - iii. Source of the property;
    - iv. Identification of the title holder;

- v. Acquisition date;
  - vi. Cost of the property;
  - vii. Percentage of Federal participation in the cost of the property;
  - viii. Location of the property;
  - ix. Use of the property;
  - x. Condition of the property; and
  - xi. The ultimate disposition of the property, including the date of disposal and sale price.
- B. A control system shall be developed and implemented to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and fully documented and made a part of the official project records.
  - C. Adequate maintenance procedures shall be developed and implemented to keep the property in good condition.
  - D. The Sub-grantee shall take a physical inventory of the property and the result reconciled with the property records at least once every two (2) years. Any differences between quantities determined by the physical inspection and those in the accounting records shall be investigated to determine the cause of the difference. The Sub-grantee shall, in connection with the inventory, verify the existence, current utilization, current location, and continued need for the property.
  - E. The Sub-grantee shall not dispose of any property acquired in whole or in part with funds provided under this Agreement, except in accordance with 44 CFR 13.32(e), if applicable, and any applicable state and local laws, rules and regulations.
7. **Hatch Act:** The Sub-grantee must comply with the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or part with federal funds (Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them). State and local employees subject to the Hatch Act continue to be covered while on vacation leave, annual leave, sick leave, leave without pay, administrative leave or furlough.
- **Political Do's and Don't's For State and Local Employees:** An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal loans or grants.

<b>Allowed Political Activity</b>	<b>Prohibited Political Activity</b>
May be a candidate for public office in a nonpartisan election	May not be a candidate for public office in a partisan election
May campaign for and hold elective office in political clubs and organizations	May not use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office
May campaign for and hold elective office in political clubs and organizations	
May actively campaign for candidates for public office in partisan and nonpartisan elections	May not directly or indirectly coerce contributions from subordinates in support of a political party or candidate
May contribute money to political organizations or attend political fundraising functions	
May participate in any activity not specifically prohibited by law or regulation	

- An election is partisan if any candidate for an elective public office is running as a representative of a political party whose presidential candidate received electoral votes at the preceding presidential election.

The Office of the Special Counsel: The Office of the Special Counsel is responsible for investigating reports or complaints of Hatch Act violations by covered employees of state and local governments. (<http://www.osc.gov/hatchact.htm>)

ATTACHMENT A  
GRANT AWARD AND AGREEMENT ARTICLES

U.S. Department of Homeland Security  
Region V  
536 South Clark Street, Floor 6  
Chicago, IL 60605



FEMA

Mr. Joseph E. Wainscott, Jr., Executive Director  
Indiana Department of Homeland Security  
Indiana Government Center South  
302 West Washington Street, E208  
Indianapolis, IN 46204-2767

FEB 23 2012

Re: Fiscal year 2008 Legislative Pre-Disaster Mitigation agreement EMC-2008-PD-0002

Dear Mr. Wainscott:

It is my pleasure to inform you that the following sub-grant has been approved and awarded under grant agreement EMC-2008-PD-0002:

<u>Sub-Grantee</u>	<u>Application Type</u>	<u>Federal Obligation</u>
Town of Dyer	Project (pump station)	\$522,562

The period of performance is February 19, 2012 – February 28, 2015. The enclosed amendment A-3 contains the articles of agreement pertaining to this grant. Important environmental requirements are outlined in the Record of Environmental Consideration and the Environmental Closeout Declaration, also enclosed.

By accepting this award, the State agrees to certain administrative and financial responsibilities, including the timely submission of all quarterly financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash on hand. The above provisions are required in order to be in full compliance with the terms and conditions of this grant agreement.

After reviewing the enclosed 76-10a, sign and date the forms indicating your concurrence. Return the signed Federal Emergency Management Agency original to the attention of Assistance Officer Cheryl Baldwin at the regional office in Chicago. If you have any questions please contact Ms. Baldwin at (312) 408-5507.

Sincerely,

Andrew Velasquez III  
Regional Administrator

Enclosures

1. AGREEMENT NO. EMC-2008-PD-0002  
 2. AMENDMENT NO. A-3  
 3. TYPE OF ACTION  GRANT  AWARD  CA  AMENDMENT  
 4. CONTROL NO. C080344N  
 C100124,  
 C120085N  
 5. RECIPIENT NAME AND ADDRESS  
 State of Indiana  
 Indiana Department of Homeland Security  
 Indiana Government Center, E208A  
 302 W. Washington St.  
 Indianapolis, IN 46204  
 6. ISSUING FEMA OFFICE AND ADDRESS  
 FEMA Region V  
 Attn: Cheryl Baldwin  
 536 S. Clark Street, 6th Floor  
 Chicago, IL 60605  
 7. PAYMENT OFFICE AND ADDRESS  
 8a. PHONE NO. 317-232-3833  
 8b. PHONE NO. 312-408-5225  
 9. NAME OF FEMA PROJECT OFFICER  
 Megan Hart  
 10. EFFECTIVE DATE OF THIS ACTION  
 11. METHOD OF PAYMENT  
 HHS, SMARTLINK  
 SF 270  
 OTHER  
 12. ASSISTANCE ARRANGEMENT  
 COST REIMBURSEMENT  
 COST SHARING  
 OTHER  
 13. PERFORMANCE PERIOD  
 From: 09/19/2008 To: 02/28/2015  
 BUDGET PERIOD  
 From: 09/19/2008 To: 02/28/2015

14. DESCRIPTION OF ACTION: This amendment is for the FY 08 Legislative Pre-Disaster Mitigation grant program. See attached letter and Articles of Agreement for specifics.  
 Requests for time extensions to the period of performance and funding period as shown in this award will be considered, but will not be automatically, and must be supported by adequate justification in order to be processed. This justification must be in the form of a written explanation of the reason or reasons for the delay in obligating previously awarded funds; an indication of the funds remaining available for use in the extended period and how they are proposed to be spent; and a description of the activities necessary to complete the effort under the award. Without this justification, extensions requests will not be processed. An extension request should be submitted to FEMA at least 60 days prior to the end of the period of performance of this grant shown in this award. Extensions will not be granted if the grantee has any overdue financial or performance reports"  
**Note: Period of performance remains the same for Jasper County Warning Sirens Project 4/19/2010 ~ 3/31/2013.**

PROGRAM NAME ABBREVIATION	CFDA NO.	ACCOUNTING DATA (ACCS CODE)	PRIORITY TOTAL AWARD	AMOUNT AWARDED THIS ACTION + or (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT	
LPDMC	97.047	2008-69-5760RB-9052-4101	\$ 200,000.00	\$ -	\$200,000.00	\$ 89,902.00	
LPDMC	97.047	2010-69-5770RB-9052-4101	\$ 215,000.00	\$ -	\$215,000.00	\$ 71,675.00	
LPDMC	97.047	2012-69-5770RB-9052-4101	\$ -	\$ 522,562.00	\$522,562.00	\$ 174,188.00	
<b>TOTALS</b>			\$ 415,000.00	\$ 522,562.00	\$937,562.00	\$335,765.00	

b. To describe changes other than funding data or financial changes, attach schedule and check here

15a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)  YES  NO

15b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN  
 This assistance is subject to the terms and conditions attached to this award notice or incorporated by reference in program legislation or regulation cited above.

16. RECIPIENT SIGNATORY OFFICIAL (Name and Title)  
 JOE WAINSCOTT, Executive Director  
 17. FEMA SIGNATORY OFFICIAL (Name and Title)  
 ANDREW VELASQUEZ III, Regional Administrator  
 18a. DATE 3/7/17  
 17a. DATE 3/22/13  
 State Original

**FEMA****FY 2008  
PRE-DISASTER MITIGATION PROGRAM  
GRANT AGREEMENT ARTICLES****PRE-DISASTER MITIGATION GRANT AGREEMENT ARTICLES  
CFDA# 97.047**

**GRANTEE:** Indiana Department of Homeland Security

**AGREEMENT NUMBER:** EMC-2008-PD-0002

**AMENDMENT NUMBER:** 3

**DESIGNATED AGENCY:** Indiana Department of Homeland Security

**PERFORMANCE PERIOD:** 02/19/2012 - 02/28/2015

**GENERAL INFORMATION:**

The **Pre-Disaster Mitigation (LPDM)** grant program provides funding for cost-effective hazard mitigation activities that complement comprehensive mitigation programs, reduce injuries, loss of life, and damage and destruction of property. Projects funded through **LPDM** must be located physically in a participating NFIP community that is not on probation or suspended (if the community has been mapped through the NFIP).

**ARTICLE I. FEMA AUTHORITY**

The United States of America through the Federal Emergency Management Agency (FEMA) which is now incorporated into the Department of Homeland Security, (hereinafter referred to as "the Grantor") agrees to grant to the state/Indian tribe/territory government, through its designated agency named above (hereinafter referred to as "the Grantee") funds in the amount specified on the obligating document, to support the **Pre-Disaster Mitigation** Grant Program, authorized under the Sections 1361(A) of the National Flood Insurance Act of 1968 (NFIA, or "the Act"), 42 USC 4104c, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, with the goal of reducing or eliminating claims under the NFIP.

The Grantee agrees to abide by the Grant Award terms and conditions as set forth in this document.

**ARTICLE II. PROJECT DESCRIPTION**

The Grantee shall perform the work described in the application package and made a part of these Grant Agreement Articles.

### ARTICLE III. PERIOD OF PERFORMANCE

The initial performance period for the Grantee shall be equal to the longest performance period of the subgrantee awards. The period of performance shall be **02/19/2012** through **02/28/2015**. All costs must be incurred during the period of performance unless pre-award costs are approved.

### ARTICLE IV. AMOUNT AWARDED

This Grant is for the administration and completion of an approved **Pre-Disaster Mitigation Grant**. Grant Agreement funds may not be used for other purposes. If costs exceed the maximum amount of FEMA funding approved, the Grantee shall pay the costs in excess of the approved budget.

The approved budget for this award by category is:

	FEDERAL	NON-FEDERAL	TOTAL
<b>Personnel</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Fringe Benefit</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Travel</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Equipment</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Supplies</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Contractual</b>	<b>\$522,562.00</b>	<b>\$174,188.00</b>	<b>\$696,750.00</b>
<b>Construction</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Other</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL DIRECT</b>	<b>\$522,562.00</b>	<b>\$174,188.00</b>	<b>\$696,750.00</b>
<b>Indirect Charges</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL BUDGET</b>	<b>\$522,562.00</b>	<b>\$174,188.00</b>	<b>\$696,750.00</b>

The Grantee shall follow Emergency Management and Assistance Regulations found in Title 44 Code of Federal Regulations (CFR) Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Office of Management and Budget Circulars A-102 and A-87, and program guidance to implement this Grant Award.

### ARTICLE V. COST SHARE

The cost-share requirement for this award is **75 %** Federal and **25 %** non-Federal.

### ARTICLE VI. FEMA OFFICIALS

FEMA officials are as follows:

The Project Officer shall be an official at the FEMA Regional Office who will be responsible for the

program and technical monitoring of the work and technical performance of the activities described in the application.

The Project Officer is: **Megan Hart**

The Assistance Officer is the FEMA official who has full authority to negotiate, administer and execute all business matters of the Grant Award.

The Assistance Officer is: **Cheryl baldwin**

## **ARTICLE VII. TERMS AND CONDITIONS**

The specific terms and conditions of this agreement are as follows:

### **ASSURANCE COMPLIANCE:**

The certifications signed by the Grantee in the application relating to maintenance of a Drug-Free workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this grant agreement and are incorporated by reference.

### **BUDGET REVISIONS:**

The Grantee shall follow prior approval requirements for budget revisions found in 44 CFR 13.30. Transfer of funds between total direct cost categories in the approved budget shall receive the prior approval of FEMA when such cumulative transfers among those direct cost categories exceed ten percent of the total budget.

If a Grantee estimates that it will have obligated funds remaining after the end of the performance period, the Grantee must report this to the FEMA Regional Office at the earliest possible time and ask for disposition instructions.

### **CLOSE OUT:**

**Reports Submission:** Per 44 CFR 13.50, when the appropriate grant award performance period expires, the Grantee shall submit the following documents within 90 days: (1) a final Financial Report, (2) final program performance report, (3) an inventory of equipment purchased under each grant's funds, (4) an inventory of Federally-owned property, (5) other required documents specified by program regulation.

**Report Acceptance:** FEMA shall review the Grantee reports, perform the necessary financial reconciliation, negotiate necessary adjustments between the Grantee and FEMA's records, and close out the grant in writing.

**Record Retention:** Records shall be retained for 3 years (except in certain rare circumstances described in 44 CFR 13.42) from the date the final financial status report is submitted to FEMA in compliance with 44 CFR 13.42.

### **CONSTRUCTION PROJECT REQUIREMENTS:**

1. Acceptance of Federal funding requires FEMA, the Grantee and any Subgrantees to comply with all Federal, state and local laws prior to the start of any construction activity. Failure to obtain all appropriate Federal, state and local environmental permits and clearances may jeopardize Federal funding.
2. Any change to the approved scope of work will require re-evaluation by FEMA for Grantee

and Subgrantee compliance with the National Environmental Policy Act and other laws and Executive Orders.

3. If ground disturbing activities occur during construction, the Grantee and any Subgrantees must ensure monitoring of ground disturbance and, if any potential archeological resources are discovered, the Subgrantee will immediately cease construction in that area and notify the Grantee and FEMA.

**COPYRIGHT:**

The Grantee is free to copyright any original work developed in the course of or under the agreement. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA views.

**COST SHARE:**

The Grantee shall follow cost-sharing requirements mandated by program guidance, statute or regulation and in compliance with 44 CFR 13.24. Cost-share funding shall be available with the approval of each grant. Performance Period extensions shall not be approved for delays caused by lack of cost-share funding.

**ENFORCEMENT:**

FEMA enforcement remedies shall be processed as specified in 44 CFR 13.43, Enforcement when the Terms and Conditions of this Grant Award are not met.

**EQUIPMENT/SUPPLIES:**

The Grantee must comply with the regulations listed in 44 CFR 13.32, Equipment, 44 CFR 13.33 Supplies, and 44 CFR 13.36 Procurement, and must be in compliance with state laws and procedures.

**FUNDS TRANSFER:**

No transfer of funds to agencies other than those identified in the approved grant agreement shall be made without prior approval of FEMA.

**INSURANCE:**

In compliance with Public Law 103-325, Title V National Flood Insurance Reform Act of 1973, section 582 requires that any person receiving Federal assistance for the repair, replacement, or restoration for damage to any personal or residential property at any time must maintain flood insurance if the property is located in a Special Flood Hazard Area.

**PAYMENT:**

Grantee shall be paid using the Federal Health and Human Services (HHS) Payment Management System-SMARTLINK, provided Grantee maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the Grantee and subgrantees. The Grantee commits itself to: 1) initiating cash draw downs only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements, using the SF 269 or equivalent report; and 3) imposing the same standards of timing and amount upon any secondary Grantee.

Subgrantees must comply with the same payment requirement as the Grantee and must comply with the requirements specified in the Grantee's subgrant award agreements.

**DUPLICATION OF PROGRAMS:**

FEMA will not provide assistance under the its programs for activities that it determines another

Federal program has a more specific or primary authority to provide. FEMA also will not provide assistance for the applicant or subapplicant's legal obligations. FEMA may disallow or recoup amounts that duplicate other authorities.

**DUPLICATION OF BENEFITS:**

FEMA will not provide assistance under the program for activities that duplicate benefits received by or available to applicants, subapplicants and other project participants from insurance, other assistance programs, legal awards, or any other source to address the same purpose. Such individual or entity must notify the Grantee and FEMA of all benefits that it receives or anticipates from other sources for the same purpose, and must seek all such benefits available to them. FEMA will reduce the grant by the amounts available for the same purpose from another source. If FEMA provides assistance under this SRL program when other benefits are available, the Grantee will be liable to FEMA for any duplicative amounts that are received from other sources, and must reimburse FEMA for such amounts. FEMA also will not provide assistance for the applicant or subapplicant's legal obligations, such as those imposed by a legal settlement, court order or State law.

**NON DISCRIMINATION:**

The program must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The program complies with Section 308 of the Stafford Act and Title VI of the 1964 Civil Rights Act and other applicable laws. All applicants/Grantees must comply with Title VI, including State and local governments distributing Federal assistance.

Applicants/Grantees and subapplicants/subgrantees will ensure that no discrimination is practiced. Applicants must consider fairness, equity, and equal access when prioritizing and selecting project subapplications to submit with their application. Subapplicants and subgrantees must ensure fairness, equity and equal access when consulting and making offers of mitigation to property owners that benefit from mitigation activities.

**CHANGES IN SCOPES OF WORK:**

Requests for changes to the SOW after award are permissible as long as they do not change the nature or total project cost of the activity, properties identified in the subapplication, the feasibility and effectiveness of the project, or the benefit cost ratio. Requests must be supported by adequate justification from the applicant in order to be processed. The justification is a description of the proposed change, a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a full description of the work necessary to complete the activity. All approvals will be at FEMA's discretion, and there is no guarantee that SOW changes will be approved.

**PERFORMANCE PERIODS:**

Program/Project/subgrant Approval and/or Awards:

All grant award activities, including all projects and/or activities approved under each subgrant award, shall be completed within the time period prescribed and authorized on the obligating documents. All costs must be incurred within the approved performance period or be approved pre-award costs.

**EXTENSIONS:**

Requests for time extensions to the Performance Period will be considered but will not be granted automatically and must be supported by adequate justification submitted to the Regional Office in order to be processed. This justification is a written explanation of the reason or reasons for the delay;

an outline of remaining funds available to support the extended Performance Period; and a description of performance measures necessary to complete the activity. Without justification, extensions requests will not be processed. Financial and progress reports must be current in order for a time extension to be considered.

**RECOUPMENT OF FUNDS:**

FEMA will recoup mitigation planning grant funds for grants that do not meet the deliverable criteria of an adopted, FEMA-approved mitigation plan by the end of the performance period.

**RECOVERY OF FUNDS:**

The Grantee will process the recovery of assistance paid to subgrantees processed through error, misrepresentation, or fraud or if funds are spent inappropriately. Recovered funds shall be submitted to FEMA as soon as the funds are collected, but no later than 90 days from the expiration date of the appropriate grant award agreement.

All fraud identifications will be reported to the FEMA Inspector General's office. The Grantee agrees to cooperate with investigation conducted by the FEMA Inspector General's office.

**REFUND, REBATE, CREDITS:**

The Grantee shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other amounts arising from the performance of this agreement, along with accrued interest, if any. The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

**REPORTS:**

**Federal Financial Report (SF 425):**

The Grantee shall submit the Federal Financial Report (FFR) to the FEMA Regional Office within 30 days of the first Federal quarter following the initial grant award. The Grantee shall submit quarterly FFRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund draw downs may be withheld if these reports are delinquent.

**Performance Report:**

The Grantee shall submit performance reports to the FEMA Regional Office within 30 days after end of each quarter. The report shall consist of a comparison of actual accomplishment to the approved activity objectives. The Regional Administrator may waive the initial report. The Grantee shall submit quarterly performance reports thereafter until the grant ends. Reports are due January 30, April 30, July 30, and October 30. Quarterly performance report shall report the name, completion status, expenditure, and payment-to-date of each approved activity/sub-grant award under the Grant Award.

**Final Reports:**

The Grantee shall submit a final FFR and Performance Report 90 days after the end date of the performance period.

**TERMINATION:**

The Grantee, subgrantee, or FEMA may terminate grant award agreements by giving written notice to the other party at least seven (7) calendar days prior to the effective date of the termination. All notices are to be transmitted via registered or certified mail, return receipt requested. The Grantee's

authority to incur new costs will be terminated upon the date of receipt of the notice or the date set forth in the notice. Any costs incurred up to the earlier of the date of the receipt of the notice or the date of termination set forth in the notice will be negotiated for final payment. Close out of the grant award will be commenced and processed as prescribed under Article VII. 3.

## **ARTICLE VIII. GOVERNING PROVISIONS**

The Grantee and any sub-grantees shall comply with all applicable laws and regulations. A non-exclusive list of laws and regulations commonly applicable to FEMA grants is attached hereto for reference only.

The Grantee and any subgrantees shall also be bound by the Program Guidance document. The following Office of Management and Budget circulars are also applicable to this grant:

OMB Circular A-110 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

OMB Circular A-87 Cost Principles for State and Local Governments

OMB Circular A-21 Cost Principles for Educational Institutions

OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations

### Commonly Applicable Statutes and Regulations

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities

Sections 1361(A) of the National Flood Insurance Act of 1968 (NFIA, or "the Act"), 42 USC 4104c, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264

Title 44 of the Code of Federal Regulations (CFR)

44 CFR Part 79-Flood Mitigation Grants

44 CFR Part 80-Property Acquisition and Relocation for Open Space

44 CFR Part 9-Floodplain Management and Protection of Wetlands

44 CFR Part 10-Environmental Considerations

44 CFR Part 13-Uniform Administrative Requirements for Grants and Cooperative Agreements

to State and Local Governments

31 CFR Part 205-Rules and Procedures for Funds Transfers

Additional Articles

Description of Action: Amendment 3 awards an additional \$522,562.00 for the FY 08 Legislative Pre-Disaster Mitigation Grant Program. This award is for the - Town of Dyer, IN - Berens Monaldi Pump Station/ Project \$522,562.00 The funds awarded by this 76-10a are available for obligation by the Grantee only during the performance period of 02/19/2012 ~ 02/28/2015. The Grantee is not authorized to incur new obligations after the expiration of the performance period unless an extension establishing a new performance period is approved by FEMA in a letter signed by the Regional Administrator. Note: The period of performance still remains 4/19/2010 ~ 3/31/ 2013 for the -Jasper County, IN.

**ATTACHMENT B - ASSURANCES****View FEMA Form 20-16A**

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## FEMA Form 20-16A, Assurances-Non-Construction Programs

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 USC Section 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 USC Section 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 USC Section 6101-6107), which prohibits discrimination on the basis of age; (e) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 USC 290-dd-3 and 290-ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 USC Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) The requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 USC Section 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of Davis-Bacon Act (40 USC Section 276a to 276a-7), Copeland Act (40 USC Section 276c and 18 USC 874), and the Contract Work Hours and Safe Standards Act (40 USC Section 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (PL 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 USC Section 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 USC Section 17401 et seq.); (g) protection of underground source of drinking water under the Safe Drinking Water Act of 1974, as amended, (PL 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (PL 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 USC Section 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC Section 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Section 469a-1 et seq.)
14. Will comply with PL 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (PL 89-544, as amended, 7 USC 2131 et seq.) pertaining to the care, handling, treatment of warm blooded animals held research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 USC Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.
19. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 USC Section 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

I, JANET CRIDER, hereby sign this form as of 03-21-2008.

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## View FEMA Form 20-16B

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### FEMA Form 20-16B, Assurances-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.**

**SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the nonfederal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or state.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 USC Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
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11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and Federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
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18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

19. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program.
20. It will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 USC Section 201), as they apply to employees of institutions of higher education, hospitals, and other nonprofit organizations.
21. It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval changes that alter the cost of the project, use of space, or functional layout, that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.
22. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.
23. It will require the facility to be designed to comply with the "American Standard Specification for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117.- 1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
24. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transfer, for the period during which the real property, or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
25. In making subgrants with nonprofit institutions under this Comprehensive Cooperative Agreement, it agrees that such grants will be subject to OMB Circular A-122, "Cost Principles for Nonprofit Organizations" included in Vol. 49, Federal Register, pages 18260 through 18277 (April 27, 1984).

I, JANET CRIDER, hereby sign this form as of 03-21-2008.

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**ATTACHMENT C**  
**MAKING PURCHASES USING FEDERAL GRANT FUNDS**  
**Federal Procurement and Contracting Requirements**

**Federal Procurement and Contracting Requirements:** A Sub-grantee is required to follow its own procurement procedures **as long as those procedures meet or exceed the federal procurement standards** established in 44 CFR 13.36. A brief summary of some of these federal requirements is as follows:

**A. Procurement Methods (44CFR 13.36(d))**

**i. Small Purchase Procedure (44 CFR 13.36(d)(1))**

- To purchase services and supplies of \$100,000 or less
  - Relatively simple and informal method
  - Cannot exceed simplified acquisition threshold of \$100,000
  - Must obtain price or rate quotation from adequate number of qualified sources (usually 3)
- Awarded based on lowest documented price quote

**ii. Sealed Bids (Formal Advertising) (44 CFR 13.36(d)(2))**

- For sealed bidding to be feasible, all of the following conditions should be present (generally used for construction and debris removal contracts):
  - A complete, adequate and realistic specification or description of project is available.
  - Two or more responsible bidders are willing and able to compete effectively.
  - Bids publicly solicited and advertised and a firm-fixed-price contract (lump sum or unit price) awarded
  - The procurement lends itself to a firm fixed price contract.
- If the sealed bid procurement method is used, the following requirements are applicable:
  - The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
  - The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.
  - All bids will be publicly opened at the time and place prescribed in the invitation for bids.
  - A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of
  - Any or all bids may be rejected if there is a sound documented reason
- Contract awarded to the responsible bidder whose bid conforms with invitation for bid and whose bid is lowest in price

**iii. Competitive Proposals (44 CFR 13.36(d)(3))**

Generally used to purchase Architectural, engineering or professional and personal services when conditions are not appropriate for the use of sealed bids.

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance.
- Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- Proposals will be solicited from an adequate number of qualified sources.
- The Sub-grantee must have a method for conducting technical evaluations of the proposals received and for selecting awardees
- Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered

- The Sub-grantee may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

iv. **Noncompetitive (Sole Source) proposals (44 CFR 13.36(d)(4))**

The following conditions are applicable to all sole source or noncompetitive procurements:

- (1) **Competitive Procurement must be infeasible:** A noncompetitive procurement can only be used when the award of a contract is infeasible under small purchase order procedures, sealed bids or competitive proposals and one (1) of the following circumstances apply:
  - (A) The item is available only from a single source;
  - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (C) The awarding agency (IDHS) authorizes noncompetitive proposals; or
  - (D) After solicitation of a number of sources, competition is determined inadequate.
- (2) **Cost analysis required:** Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (3) **Awarding agency review may be required:** A Sub-grantee is required to submit the proposed procurement to IDHS for pre-award review (in accordance with 44 CFR 13.36(g)).]

**B. General Federal Procurement Standards (44 CFR 13.36(b)):**

- Contracts must be monitored by the Sub-grantee to assure compliance with terms, conditions and specifications of contracts or purchase orders.
- The Sub-grantee must maintain written code of standards governing award and administration of contracts (conflicts of interest, selection and award, etc.) and the Sub-grantee must comply with the applicable federal conflict of interest requirements established in 44 CFR 13.36(b)(3)
- The Sub-grantee will review proposed procurements to avoid unnecessary or duplicate purchases
- Intergovernmental agreements for procurement are encouraged
- Use of excess and surplus property is suggested when feasible
- Use of value engineering clauses in construction contracts of sufficient size is encouraged
- Contracts will be awarded only to responsible contractors possessing ability to perform
- Supporting documents must be maintained and include - rationale for method of procurement, selection of contract type, contractor selection or rejection and basis for contract price
- Use of time and material contracts is limited to situations where 1) no other contract is feasible, and 2) includes a ceiling price. (This must be documented)
- The Sub-grantee will have responsibility for settlement of all contractual and administrative issues arising out of procurements
- The Sub-grantee must have protest procedures to handle and resolve disputes relating to procurements

**C. Competition (44 CFR 13.36(c)):**

- All procurement transactions will provide full and open competition. Examples of restrictive competition include:
  - a. Unreasonable requirements on firms in order for them to qualify
  - b. Requiring unnecessary experience or excessive bonding
  - c. Noncompetitive awards to consultants on retainer
  - d. Organizational conflicts of interest
  - e. Specifying only brand name products
  - f. Any arbitrary action in the procurement process
- Geographical preferences in evaluation of bids is prohibited

- Written selection procedures must be in place for all procurements identifying all requirements firms must fulfill
- Ensure all pre-qualified lists of persons, firms or products are current and include enough qualified sources to ensure maximum open and free competition

**D. Affirmative Action (44 CFR 13.36(e)):**

- The Subgrantee will take all necessary affirmative action steps to ensure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible

**E. Contract Cost and Price: (44 CFR 13.36(f))**

- The Sub-grantee must perform cost or price analysis in connection with every procurement action
- The Sub-grantee must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
- Costs and prices based on estimated costs will be allowable only to the extent that they are consistent with Federal cost principles.
- Cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

**F. State Review: (44 CFR 13.36(f))**

- The Sub-grantee must make available to the State technical specifications on proposed procurements and, on request, make pre award documents available i.e. requests for proposals or invitations for bids, independent cost estimates.
- Review is required in all cases when a Sub-grantee’s procurement procedure fails to comply with standards, procurement exceeds simple acquisition threshold and is awarded without competition or only one bid or offer is received, or is awarded to other than low bidder or brand name is specified.
- The Sub-grantee may request that its procurement system be reviewed to determine whether its system meets these standards, or the Sub-grantee may self-certify its procurement system

**G. Bonding Requirements: (44 CFR 13.36(h))**

For construction or facility improvement contracts exceeding \$100,000, the State may accept the Sub-grantee’s bonding policy and requirements. If such a determination has not been made, the following are minimum bonding requirements

- A bid guarantee from each bidder equivalent to five (5) percent of bid price
- A performance bond from contractor for 100% of contract price
- Payment bond of the part of the contractor for 100% of the contract price.

**H. Types of Contracts**

Lump sum:	Contract for work within a prescribed boundary with a clearly defined scope and total price
Unit price	Contract for work done on an item-by-item basis with cost determined on a unit basis
Cost + fixed fee	Either a lump sum or unit price contract with a fixed contractor fee added into price
Time & materials	Should be avoided, but may be allowed for work necessary immediately after disaster and after a determination that no other contract is suitable; include a cost ceiling or “not to exceed” provision [44CFR13. 36(b)(10)]
Cost plus % of cost	Not allowed by FEMA Regulations
Contingency	Not allowed by FEMA Regulations

**I. Contract Provisions: (44 CFR 13.36(i)) Contracts must contain these provisions:**

- Administrative, contractual or legal remedies in instances where contractors violate or breach contract terms—Contracts for more than \$100,000.
- Termination clause for cause and termination for convenience—Contracts for more than \$10,000.

- Compliance with Equal Employment Opportunity regulations—All construction contracts awarded in excess of \$10,000.
- Compliance with Anti-Kickback regulations—All contracts for construction or repair
- Compliance with Davis-Bacon Act –Construction contracts in excess of \$2,000
- Compliance with Contract Work Hours and Safety Standards Act—Construction contracts in excess of \$2,000, and in excess of \$2,500 for contracts which involve the employment of mechanics or laborers
- Notice of reporting requirements and regulations pertaining to reporting—All contracts
- Notice of requirements pertaining to patent rights—All contracts
- Notice of requirements pertaining to copyrights and rights in data—All contracts
- Access of any records by grantee, sub grantee, Federal grantor, Comptroller or any duly authorized representatives—All contracts
- Records must be retained for at least three years after final payments are made—All contracts
- Compliance with CAA, CWA, EPA regulations—Contracts in excess of \$100,000.
- Mandatory standards relating to energy efficiency—All contracts
- The Lobbying Certification—All contracts
- Federal Debarment and Suspension Requirements—All contracts