



October 26, 2022

Danielle Mieler
Sustainability and Resilience Manager
Alameda, City of
2263 Santa Clara Avenue
Alameda, CA 94501

Subject: **Notification of Subapplication Approval**
FY22 Legislative Pre-Disaster Mitigation Grant Program
Grant #**2022-0001**, Project #**PJ0002**, FIPS #**001-00562**

Dear Ms. Mieler:

The California Governor's Office of Emergency Services (Cal OES) received notification that the Federal Emergency Management Agency (FEMA) has approved your organization's subaward application in the amount of **\$1,500,000.00**. A copy of the FEMA award package is enclosed for your records. In order to receive payment as a grant subrecipient, your organization must have the following on file with the Recovery Financial Processing Unit:

- A valid, current (approved within the last 3 years) Governing Body Resolution
- A Project Assurances for Federal Assistance agreement
- A Grant Subaward Face Sheet (GSAFS). Please ensure that the individual who signs the GSAFS is designated by the Governing Body Resolution as an Authorized Agent for your organization.
- A current Federal Funding Accountability and Transparency Act (FFATA) Financial Disclosure form. This form must be submitted each calendar year.
- An active registration with the federal System for Award Management (SAM) website. The registration must remain active for the duration of this grant subaward.

For your convenience, this subapplication approval package includes the required post-obligation documents as well as guides to completing and renewing a SAM registration. Please complete the documents and mail copies to the address listed at the end of this letter, keeping the originals with your records. Alternatively, you may scan and email the completed documents to the Recovery Financial Processing Unit at HMgrantsPayments@CalOES.ca.gov. Electronic copies of the post-obligation documents can also be requested at the same address.



Payments will be made on a reimbursement basis using the enclosed Hazard Mitigation Reimbursement Request Form. A ten percent (10%) retention will be withheld from all reimbursement payments and will be released as part of the subaward closeout process.

Reimbursements can be made only for items listed on the approved subaward application. Expenditures for any other work should be separately maintained and are the sole responsibility of the subrecipient. Any funds received in excess of current needs or approved amounts, or those found owed as a result of a final inspection or audit, must be refunded to the State within 30 days of receipt of an invoice from Cal OES.

When mailing documents to the Recovery Financial Processing Unit, please use the following address:

California Governor's Office of Emergency Services
Attention: Recovery Financial Processing Unit
3650 Schriever Avenue
Mather, CA 95655

For further assistance regarding post-obligation documents or the reimbursement request process, please contact the Recovery Financial Processing Unit at (916) 845-8110 or at HMGrantsPayments@caloes.ca.gov. For program-related questions, please contact the Hazard Mitigation Assistance Branch at (916) 328-7450.

Recovery Financial Processing Unit

Enclosures

c: Subrecipient's Project File



3650 SCHRIEVER AVENUE • MATHER, CA 95655
RECOVERY FINANCIAL PROCESSING UNIT
(916) 845-8110

FEMA Award Package

The award package you selected is provided below. Subgrant applications included in the package are also provided below. To view the award package, click the [View Award Package](#) link below.

AMD 0

Grant Application Year:	2022	Obligated Amount:	\$	
Grant Application Title:	California 2022 LPDM Congressionally Directed Grant Application	Date Awarded:	09-15-2022	Date Obligated: 09-15-2022
Grant Application Number:	<u>LPDM-09-CA-2022</u>	Subgrant Applications Obligated:	3	

[Print Award Package](#)

[View Award Package \(Part 1 of 3\)](#)
[View Award Package \(Part 2 of 3\)](#)
[View Award Package \(Part 3 of 3\)](#)

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 FINANCIAL PROCESSING UNIT

Displaying 1-3 of 3

Show 5

FIPS: 001-00562

LPDM22-PJ0002

Application Number	Subgrant Applicant	Non-Federal Share	Federal Share
<u>LPDM-PJ-09-CA-2022-001</u> - View REC Report	City of Alameda	\$ 182,360.00	\$ 563,000.00
<u>LPDM-PJ-09-CA-2022-002</u> - View REC Report	City of Alameda	\$ 500,000.00	\$ 1,500,000.00
<u>LPDM-PJ-09-CA-2022-003</u> - View REC Report	City of Alameda	\$ 24,640.00	\$ 77,500.00

[Go Back](#) [View More FEMA Signed Packages](#)

Overall Grant Performance Period for LPDM22: 09/30/22 to 09/29/25
 (Not project performance period)

Award Letter

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway
Suite 1200
Oakland, CA 94607



FEMA

Ron Miller
Division Chief, California Governors Office of Emergency Services (Cal OES)
10390 Peter A Mccuen Blvd
Building D, HMA
Mather, CA 95655-0000

Dear **Ron Miller**:

Enclosed is an executed copy of FEMA Form 76-10A reflecting the award to your FY **2022 LPDM Grant (LPDM-09-CA-2022)**. Your SMARTLINK Grant Payment Account will be adjusted accordingly.

By accepting this award you assume certain administrative and financial responsibilities including the timely submission of all financial and programmatic reports, resolution of all interim audit findings and the maintenance of a minimum level of cash on hand. Should you not adhere to these responsibilities, you will be in violation of the terms of this award.

If you have any questions regarding this matter, please call **Phillip Wang** at **510-627-7753**.

Sincerely,

Timothy Owens
Assistance Officer

www.fema.gov

Agreement Articles

Please click the Attachment link below to view the Award Agreement Articles

If attachment doesn't open, save Attachment to desktop and open the saved file.

[Award Agreement Articles Attachment](#)

Award Package (Part 3 of 3)

**FY 2022
PRE-DISASTER MITIGATION PROGRAM
GRANT AGREEMENT ARTICLES
CFDA #97.047**

RECIPIENT: California Governor's Office of Emergency Services

AGREEMENT NUMBER: EMF-2022-PD-0001

AMENDMENT NUMBER: 0 (LPDM-PJ-CA-2022-001, 2022-002 and 2022-003)

DESIGNATED AGENCY: California Governor's Office of Emergency Services

PERIOD OF PERFORMANCE: September 30, 2022 to September 29, 2025

GENERAL INFORMATION

The **Pre-Disaster Mitigation (PDM)** grant program makes federal funds available to state, local, tribal, and territorial governments to plan for and implement sustainable cost-effective measures designed to reduce the risk to individuals and property from future natural hazards, while also reducing reliance on federal funding from future disasters.

The following Articles I-IX are FEMA's Grant Award Terms and Conditions. DHS Grant Award Standard Terms and Conditions follow those Articles. The recipient agrees to abide by all the Grant Award Terms and Conditions in this document, FEMA's Hazard Mitigation Guidance (2015), and the FY2022 PDM Notice of Funding Opportunity (NOFO).

ARTICLE I. FEMA AUTHORITY

FEMA agrees to grant to the state, local, tribal, or territorial government identified above, hereinafter referred to as "the recipient," through its designated agency named above, the funds in the amount specified in the obligating document, to support the PDM Grant Program, authorized under Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93-288, as amended (42 U.S.C. § 5133). Funding for PDM grants for Fiscal Year (FY) 2022 was appropriated by the Department of Homeland Security Appropriations Act (Act), 2022, Public Law No. 117-103. The Act appropriated specific funding amounts for grants under Section 203 of the Stafford Act for 68 specified pre-disaster mitigation projects through the Act's Joint Explanatory Statement, in the table entitled Community Project Funding and Congressionally Directed Spending, which was incorporated into the Act by reference.

ARTICLE II. PROJECT DESCRIPTION

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

ARTICLE III. PERIOD OF PERFORMANCE

The Period of Performance shall be 36 months from the date of the award unless otherwise approved by FEMA. All awards must be made by September 30, 2022.

ARTICLE IV. AMOUNT AWARDED

This Grant Award is for the administration and completion of an approved **PDM project**. Funds approved under this Grant Agreement may not be used for other purposes. If the costs exceed the amount of FEMA funding approved, then the recipient shall pay the costs that exceed the approved budget.

The FY 2022 PDM Grant Program will provide **\$2,252,500** in funding for eligible costs associated with this award. Nevertheless, in accordance with Agreement Article VI, FEMA has placed a funding hold on this award.

All costs charged to awards covered in the FY 2022 PDM NOFO must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200, unless otherwise indicated in the NOFO, or the terms and conditions of the award. This includes, among other requirements, that costs must be incurred, and products and services must be delivered, within the period of performance of the award. *See* 2 C.F.R. § 200.403(h) (referring to budget periods, which for FEMA awards is the same as the period of performance).

ARTICLE V. COST SHARE

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

The cost share for PDM is governed by Section 203(h) of the Stafford Act (42 U.S.C. § 5133(h)):

- a. Small impoverished communities may receive a federal cost-share of up to 90% of the total cost to implement eligible PDM activities.
- b. The PDM program offers up to 75% federal cost share to all other applicants and subapplicants for mitigation activities.

ARTICLE VI. FUNDING HOLD

Funding Hold: Additional Information Required

FEMA has placed a funding hold on this award, and \$752,500 is on hold in the FEMA financial systems. The recipient is prohibited from obligating, expending, or drawing down the funds associated with the following projects/investments.

1. City of Chino Hills-LPDM-PJ-09-CA-2022-001 Fuel Reduction Project \$565,000, EHP Compliance
2. City of Poway-LPDM-PJ-09-CA-2022-003 Hazardous Tree Removal Mitigation Project \$187,500, EHP Compliance

To release the funding hold, on behalf of the subrecipients, the recipient must provide a detailed cost breakdown and justification for the projects/investments listed above. FEMA will rescind the funding hold upon its review and approval of the detailed cost breakdown and justification.

If you believe this funding hold was placed in error, please contact the relevant Program Analyst or Grants Management Specialist.

Funding Hold: Environmental Planning and Historic Preservation (EHP) Compliance –

FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by FEMA grant funds, through its EHP review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. In order to initiate EHP review of your project(s), you must submit a detailed project description along with supporting documentation. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies.

This award includes work that triggers an Environmental Planning and Historic Preservation (EHP) compliance review. A funding hold is placed on the following investments/projects, and the recipient is prohibited from obligating, expending, or drawing down funds under this award in the amount of \$752,500 in support of the following investments/projects, with a limited exception for any approved costs associated with the preparation, conduct, and completion of required EHP reviews. Please refer to the FY 2022 PDM NOFO for further information on EHP requirements and other applicable program guidance, including the HMA Guidance (2015).

1. City of Chino Hills-LPDM-PJ-09-CA-2022-001 Fuel Reduction Project \$565,000
2. City of Poway-LPDM-PJ-09-CA-2022-003 Hazardous Tree Removal Mitigation Project \$187,500

To release this hold, the recipient is required to obtain the required FEMA EHP compliance approval for this project pursuant to the FY 2022 PDM NOFO. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state, and local laws. Failure to comply with this condition may

jeopardize your ability to access and expend federal funds for the investments/projects listed above. Please contact your Regional Environmental Officer (REO) to receive specific guidance regarding EHP compliance.

If you have questions about this funding hold or believe it was placed in error, please contact the Regional Environmental Officer (ROE).

ARTICLE VII. ADDITIONAL PDM TERMS AND CONDITIONS

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

Performance Measures

Based on the statutory requirements of Section 203 and the Hazard Mitigation Assistance (HMA) Guidance (2015), FEMA has specified minimum project criteria, including that applicant must demonstrate mitigation projects are cost-effective. Benefit-Cost Analysis (BCA) is the method by which the future benefits of a hazard mitigation project are determined and compared to its costs. The result is a Benefit-Cost Ratio (BCR), which is calculated by a project's total of discounted benefits divided by its total of discounted costs. The BCR is a numerical expression of the "cost-effectiveness" of a project. A project is considered cost effective when the BCR is 1.0 or greater, indicating the benefits of a prospective hazard mitigation project are sufficient to justify the costs. Projects that are not cost-effective will not be eligible.

PDM aims to implement projects that reduce risks posed by natural hazards and reduce future losses, by funding priority projects and activities. Priorities include risk reduction of both acute events and chronic stressors, which are either observed or expected. To achieve these goals, for FY22 PDM, the 68 identified Congressional Community Projects prioritize the following types of activities: infrastructure projects, those that mitigate risk to lifelines, and projects proposed by applicants that reduce reliance on federal disaster funding. FEMA will measure the percent of dollars invested in these priorities, which will indicate that PDM projects expect to meet the goal of reducing both risks posed by natural hazards and future losses.

Closeout Reporting Period:

Pursuant to 2 C.F.R. § 200.344(a), the recipient has 120 calendar days after the end of the period of performance to submit all final financial, performance, and other reports required by the terms and conditions of this award, including: (1) the final request for payment, if applicable; (2) the final Federal Financial Report (FFR) (SF-425); (3) the final Performance Progress Report (PPR); (4) a qualitative narrative summary of the impact of those accomplishments throughout the entire period of performance; and (5) other documents specified by program regulations. The closeout reporting deadline for this award is 1/28/2026.

Liquidation Period:

Pursuant to 2 C.F.R. § 200.344(b), the recipient has 120 calendar days after the end of the period of performance to liquidate all obligations incurred under this award. The liquidation deadline for this award is 1/28/2026.

Construction Project Requirements:

Acceptance of federal funding requires FEMA, the recipient, and any subrecipients to comply with all federal, state, and local laws and regulations 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. Also:

- a. Any change to the approved scope of work will require re-evaluation by FEMA for recipient and subrecipient compliance with the National Environmental Policy Act (NEPA) and other laws and executive orders.
- b. If ground-disturbing activities occur during construction, the recipient and any subrecipients must ensure monitoring of ground disturbance, and if any potential archaeological resources are discovered, the subrecipient will immediately cease construction in that area and notify the recipient and FEMA.
- c. In compliance with 42 U.S.C. 4012a(a), when financial assistance is approved for acquisition or construction purposes within the Special Flood Hazard Area (SFHA), flood insurance shall be maintained for the life of the property regardless of transfer of ownership for any properties.

Copyright and Data Rights:

The recipient is free to copyright any original work developed during or under this Grant Agreement. The recipient acknowledges that DHS/FEMA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for federal government purposes:

1. The copyright in any work developed under an award or subaward; and
2. Any rights of copyright to which a recipient or subrecipient purchases ownership with federal support in a manner consistent with 2 C.F.R. § 200.315.

The recipient acknowledges that DHS/FEMA has the right to obtain, reproduce, publish, or otherwise use the data produced under a federal award and authorize others to do so for federal government purposes in a manner consistent with 2 C.F.R. § 200.315.

Enforcement:

FEMA remedies for noncompliance will be processed as specified in 2 C.F.R. §§ 200.339-200.343, and, for acquisitions under this award for open space, FEMA enforcement remedies shall be processed as specified in 44 C.F.R. § 80.19(e), when the Grant Award Terms and Conditions of this Grant Agreement are not met.

Payment:

Recipient shall be paid using the FEMA Payment and Reporting System (PARS), provided the recipient maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the recipient and subrecipients. The recipient

commits itself to: 1) initiating cash drawdowns only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements, using the SF-425; and 3) imposing the same standards of timing and amount upon any subrecipient.

Subrecipients must comply with the same payment requirement as the recipient and must comply with the requirements specified in the recipient's subaward Agreement.

HMA Duplication Of Benefits:

HMA funds cannot duplicate or be duplicated by funds received by or available to applicants, subapplicants, or project or planning participants from other sources for the same cost or activity already paid for by another source of funding, such as benefits received from insurance claims, other assistance programs (including previous project or planning grants and subawards from HMA programs), legal awards, or other benefits associated with properties or damage that are or could be subject of litigation.

Because the availability of other sources of mitigation grant or loan assistance is subject to available information and the means of each individual applicant, HMA does not require proof that other assistance (not including insurance) has been sought. However, it is the responsibility of the property owner to report other benefits received, any applications for other assistance, the availability of insurance proceeds, or the potential for other compensation, such as from pending legal claims for damages, relating to the property.

Where the property owner has an insurance policy covering any loss to the property which relates to the proposed HMA project, the means are available for receiving compensation for a loss or, in the case of increased cost of compliance (ICC), assistance toward certain mitigation projects. FEMA will generally require that the property owner file a claim prior to the receipt of HMA funds.

Additional Non-Discrimination Requirements:

Applicants and subapplicants will ensure that no discrimination occurs. Subrecipients must ensure fairness, equity and equal access when consulting and making offers of mitigation to property owners that benefit from mitigation activities.

Changes In Scope Of Work:

Requests for changes to the scope of work (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 includes 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.

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 recipient will process the recovery of assistance paid to subrecipients 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.

Additionally, all costs charged to awards must comply with the grant program's applicable statutes, policies, requirements, as well as with the terms and conditions of the award. If FEMA staff identify costs that are inconsistent with any of these requirements, these costs may be disallowed, and FEMA may recover funds as appropriate, consistent with applicable laws, regulations, and policies.

Reporting of Fraud:

All fraud identifications will be reported to the Department of Homeland Security Office of Inspector General (OIG). The recipient agrees to cooperate with investigation conducted by the DHS OIG.

Federal Financial Reports (SF-425):

The recipient shall submit the FFR (SF-425) within 30 days of the end of the first federal quarter following execution of this Grant Agreement. The recipient 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 drawdowns may be withheld if these reports are delinquent.

Termination:

FEMA may terminate a federal award in whole or in part for one of the following reasons. FEMA and the recipient must still comply with closeout requirements at 2 C.F.R. §§ 200.344-200.345 even if an award is terminated in whole or in part. To the extent that subawards are permitted under this NOFO, pass-through entities should refer to 2 C.F.R. § 200.340 for additional information on termination regarding subawards.

Noncompliance

If a recipient fails to comply with the terms and conditions of a federal award, FEMA may terminate the award in whole or in part. If the noncompliance can be corrected, FEMA may first attempt to direct the recipient to correct the noncompliance. This may take the form of a Compliance Notification. If the noncompliance cannot be corrected or the recipient is non-responsive, FEMA may proceed with a Remedy Notification, which could impose a remedy for noncompliance per 2 C.F.R. § 200.339, including termination. Any action to terminate based on noncompliance will follow the requirements of 2 C.F.R. §§ 200.341-200.342 as well as the requirement of 2 C.F.R. § 200.340(c) to report in FAPIIS the recipient's material failure to comply with the award terms and conditions.

With the Consent of the Recipient

FEMA may also terminate an award in whole or in part with the consent of the recipient, in which case the parties must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated.

Notification by the Recipient

The recipient may terminate the award, in whole or in part, by sending written notification to FEMA setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of partial termination, FEMA may determine that a partially terminated award will not accomplish the purpose of the federal award, so FEMA may terminate the award in its entirety. If that occurs, FEMA will follow the requirements of 2 C.F.R. §§ 200.341-200.342 in deciding to fully terminate the award.

ARTICLE VIII. FEMA STANDARD TERMS AND CONDITIONS

Applicability of DHS Standard Terms and Conditions to Tribes

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the HMA Helpline at 1-866-222-3580 or via e-mail to FEMA-ASK-PDM@fema.dhs.gov if you have any questions.

Disposition of Equipment Acquired Under the Federal Award

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state subrecipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment

pursuant to 2 C.F.R. section 200.313. State recipients and state subrecipients must follow the disposition requirements in accordance with state laws and procedures.

Prior Approval for Modification of Approved Budget

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308.

For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved.

For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work.

You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Indirect Cost Rate

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

ARTICLE IX. GOVERNING PROVISIONS

The recipient and any subrecipients shall comply with all applicable laws, regulations, and policies. A non-exclusive list of laws and regulations applicable to PDM grants is attached hereto for reference only.

The recipient and any subrecipients shall also be bound by the HMA Guidance and the FY 2022 PDM NOFO.

Applicable Statutes and Regulations

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5133

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

44 CFR Part 9-Floodplain Management and Protection of Wetlands

2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

44 CFR Part 201

31 CFR Part 205-Rules and Procedures for Efficient Federal-State Funds Transfers

2 CFR Part 170, Reporting Subaward and Executive Compensation – Appendix A to Part 170 – Award Term

FY 2022 DHS Standard Terms and Conditions

The Fiscal Year (FY) 2022 OHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2022. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2022 OHS Standard Terms and Conditions will be housed on dhs.gov at www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions.

A. Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

- I. OHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 4240 Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the OHS financial assistance office (OHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
- II. OHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by OHS at 2 C.F.R. Part 3002.
- III. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. § 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

B. General Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing OHS access to records, accounts, documents, information, facilities, and staff.

- I. Recipients must cooperate with any OHS compliance reviews or compliance investigations conducted by OHS.
- II. Recipients must give OHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.
- III. Recipients must submit timely, complete, and accurate reports to the appropriate OHS officials and maintain appropriate backup documentation to support the reports.
- IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.
- V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from OHS or one of its awarding component agencies must complete the OHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of OHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the OHS Standard Terms and

FY 2022 DHS Standard Terms and Conditions

Conditions. Subrecipients are not required to complete and submit this tool to OHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

The OHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

C. standard Terms & conditions

I. Acknowledgement of Federal Funding from OHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

II. Activities Conducted Abroad

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, 11, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101-12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

V. Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. OHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the OHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

VI. Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. OHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

VII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection

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therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units- i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

VIII. Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

IX. Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by OHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

X. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

XI. Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons.

XII. Education Amendments of 1972 (Equal Opportunity in Education Act)- Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. OHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

XIII. Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

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XIV. False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§3729-3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

XV. Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

XVI. Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

XVII. Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

XVIII. Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a

XIX. John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to OHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

XX. Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the OHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

XXI. Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency,

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a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

XXII. National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq. and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

XXIII. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is OHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by OHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual OHS programs.

XXIV. Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

XXV. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

XXVI. Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

XXVII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

XXVIII. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial

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assistance.

XXIX. Reporting of Matters Related to Recipient Integrity and Performance

General Reporting Requirements:

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

XXX. Reporting Subawards and Executive Compensation

Reporting of first tier subawards.

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

XXXI. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients must comply with the "Build America, Buy America" provisions of the Infrastructure Investment and Jobs Act and E.O. 14005. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

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Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements is on the website below.

- (a) When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
 - (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at "[Buy America](#)" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

XXXII. SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

XXXIII. Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

XXXIV. Trafficking Victims Protection Act of 2000 (TVPA)

Trafficking in Persons.

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

XXXV. Universal Identifier and System of Award Management

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

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XXXVI. USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c.

XXXVII. Use of OHS Seal, Logo and Flags

Recipients must obtain permission from their OHS FAO prior to using the OHS seal(s), logos, crests or reproductions of flags or likenesses of OHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

XXXVIII. Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

**FEDERAL EMERGENCY MANAGEMENT AGENCY
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT**

1a. AGREEMENT NO. **EMF-2022-PD-0001** 2. AMENDMENT NO. **0** 3. RECIPIENT NO. **68-0278801** 4. TYPE OF ACTION **STD** 5. CONTROL NO. **FX00412N2022T**

6. RECIPIENT NAME AND ADDRESS
**California Governors Office of
Emergency Services (Cal OES)
10390 Peter A Mccuen Blvd ,
Building D, HMA
Mather
CA , 95655-0000**

7. ISSUING FEMA OFFICE AND ADDRESS
**FEMA Region IX
1111 Broadway , 1111
Broadway
Oakland, CA - 94607
Specialist:PHILLIP WANG 510-
627-7753**

8. PAYMENT OFFICE AND ADDRESS
,
,

9. NAME OF RECIPIENT PROJECT OFFICER
Ron Miller

PHONE NO. **916-845-8853** 10. NAME OF FEMA PROJECT COORDINATOR **PHILLIP WANG** PHONE NO. **510-627-7753**

11. EFFECTIVE DATE OF THIS ACTION **09-12-2022** 12. METHOD OF PAYMENT **O** 13. ASSISTANCE ARRANGEMENT **S** 14. PERFORMANCE PERIOD
From: **09-30-2022** To: **09-29-2025**

Budget Period
From: **10-01-2021** To: **09-30-2022**

15. DESCRIPTION OF ACTION

a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX- XXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMMULATIVE NON- FEDERAL COMMITMENT
LPDM	97.047	2022-FA-EI01-R092- 4101-D	\$0.00	\$2,252,500.00	\$2,252,500.00	\$752,485.46
TOTALS			\$0.00	\$2,252,500.00	\$2,252,500.00	\$752,485.46

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

No

16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) DATE
Signed by

18. FEMA SIGNATORY OFFICIAL (Name and Title) DATE
Signed by **KATHRYN LIPIECKI** **09-15-2022**
Assistance Officer