

Addendum to the Hazard Mitigation Assistance Guidance

Program Administration by States Pilot, Hazard
Mitigation Grant Program

For States, Tribes, and Territories

October 2017



FEMA

Federal Emergency Management Agency
Department of Homeland Security
500 C Street, S.W.
Washington, DC 20472

Titles of Opportunities

Hazard Mitigation Grant Program (HMGP)

Funding Opportunity Numbers

The Catalog of Federal Domestic Assistance (CFDA) number for the Hazard Mitigation Grant Program (HMGP) is 97.039.

Federal Agency Name

U.S. Department of Homeland Security (DHS)

Federal Emergency Management Agency (FEMA)

Announcement Type

Additional Program Guidance Sandy Recovery Improvement Act of 2013

Dates

This document supplements the Hazard Mitigation Assistance (HMA) Guidance by providing direction on the Program Administration by States provision in the Sandy Recovery Improvement Act, Section 1104(b). This guidance applies to HMGP awards that have open application periods after October 1, 2017. Submittal deadlines for applications for HMGP funding are set by the date of the Presidential major disaster declaration.

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PART I. Background

The Sandy Recovery Improvement Act of 2013 (the Act) (enacted concurrently with the Disaster Relief Appropriations Act of 2013) was signed by the President on January 29, 2013. The goal of the Act is to establish efficiencies in Federal disaster recovery programs that will expedite the Hurricane Sandy recovery process and future disaster recovery nationwide, and to reduce costs.

The Act, Section 1104, amends Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (which authorizes the Hazard Mitigation Grant Program [HMGP]), and provides the Federal Emergency Management Agency (FEMA) with the authority to implement the provisions of Program Administration by States (PAS) (Section 404(c)) of the Stafford Act) as a pilot program prior to the development of notice and comment rulemaking.

This optional PAS Pilot applies to HMGP for eligible activities immediately following any Presidential major disaster declaration on/after January 29, 2013, and for any declaration before this date for which the application period is still open (from DR-4010-KS forward). Federally-recognized tribes that choose to be a pass-through entity have an opportunity to request PAS delegations. In this document, unless otherwise indicated, the term “Recipient” or “pass-through entity” will refer to States, federally recognized tribes and territories that receive HMGP funds directly from FEMA.

States without disaster declarations can request delegation of review of local hazard mitigation plans. The authority to delegate local mitigation plan approval authority is in regulations at 44 Code of Federal Regulations (CFR) Section 201.3(c)(6). “For Managing States that have been approved under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c), review and approve local mitigation plans in accordance with §201.6(d).” Since tribes do not review local mitigation plans, they cannot request delegation of local mitigation plan approval.

A. Programmatic Changes

With the release of this Addendum, revisions to programmatic requirements have been made; however, many of the specific requirements of the PAS Pilot remain the same. The changes included in the PAS Pilot are as follows:

- 2 CFR Part 200 applies to all HMGP awards made under emergency or Presidential major disaster declarations declared on or after December 26, 2014. 2 CFR Part 200 requires several changes to the PAS Pilot including terminology changes, new definitions and grants management requirements previously found in 44 CFR Part 13.
- The *State Mitigation Plan Review Guide*, released in March 2015, included grants management performance measures for Enhanced State or Tribal Mitigation Plans. Several changes are made to align the grants management performance measures for Enhanced Plans and Program Administration by States Pilot, HMGP with the Guide.
- The *Hazard Mitigation Assistance Guidance (2015)* was published on February 27, 2015. Several changes were made to align the PAS Pilot with the latest HMA program guidance.

- A new non-disaster option has been created for the delegation of local mitigation plan approvals. States can request delegation of local mitigation plan approvals outside of a disaster declaration. Local mitigation plan reviews and approvals will be conducted in accordance with 44 CFR Section 201.6(d) and applicable FEMA policies.

PART II. Program Administration by States Pilot

The Sandy Recovery Improvement Act of 2013 (Public Law 113-2) directed FEMA to finalize the “criteria relating to administration of hazard mitigation assistance by states” by implementing a Pilot Program Administration by States (PAS) program outside of normal rulemaking processes until FEMA can promulgate rules. Pass-through entities that wish to participate in the PAS Pilot may be delegated additional defined responsibilities by FEMA based on an analysis of their staffing plan, grants management and hazard mitigation experience, and demonstrated past performance. These responsibilities include (but are not limited to) reviewing project and planning applications, completing benefit-cost analyses (BCA) for projects, approving scope-of-work modifications, and moving funds between applicable projects. States also review and approve local hazard mitigation plans. In return for assuming additional responsibilities, pass-through entities will have increased control and oversight to implement HMGP to streamline review of applications and shorten the previous 24-month grant obligation timeline.

Under the PAS Pilot, depending on which responsibilities it delegates, FEMA’s role in administering the grant changes. Many of the potential activities that could be delegated to a pass-through entities under the PAS Pilot are already being completed by pass-through entities. For example, the pass-through entity is responsible for preparing a BCA for project subapplications. The current practice is that FEMA reviews and approves all HMGP applications. Under the PAS Pilot, the pass-through entity may opt to conduct the agreed upon reviews without seeking approval from FEMA. Additionally, under the PAS Pilot, pass-through entities can have increased control of approval of scope of work changes, cost overruns and underruns, reimbursement claims to subrecipient communities, and approval of local mitigation plans. FEMA has a reduced role but maintains oversight responsibilities. The PAS Pilot is intended to facilitate and accelerate the review and approval process of various elements in managing the grant program.

PART III. State, Tribal or Territorial Request

A Recipient wishing to participate in PAS must submit a written request to FEMA, indicating its desire to implement PAS. As part of the written request for PAS, the Recipient may elect to assume primary responsibility for all or various elements of HMGP or can request grant administration delegations from FEMA (see Attachment A). These responsibilities include (but are not limited to) reviewing project and planning applications, completing BCAs for projects, approving scope-of-work modifications, and moving funds between applicable projects. States can also approve local mitigation plans under PAS. FEMA staff will assess the Recipient's request against the criteria provided in Tables 1 through 5.

A. Disaster Delegation

A Recipient wishing to request delegation of all or various elements of HMGP and or local mitigation plan approval shall submit a written request to FEMA, indicating its desire to implement PAS. FEMA will assess the Recipient's request against the criteria provided in Tables 1 through 5.

B. Non-Disaster Delegation of Local Mitigation Plan Approval

A State wishing to request delegation of local mitigation plan approval when there is no open disaster declaration, shall submit a written request to FEMA, indicating its desire to implement PAS to review and approve local mitigation plans. FEMA will assess the State's request against the criteria provided in Table 5.

PART IV. Criteria for PAS

According to the Stafford Act (42 U.S.C. 5107c(c)), to establish eligibility for administering PAS, the requesting Recipient must have:

- A current FEMA-approved State or Tribal (Standard or Enhanced) Mitigation Plan;
- Demonstrated past performance in the grant management area(s) requested (see Tables 1 through 5); and
- Demonstrated commitment to mitigation (see Table 6).

PART V. FEMA Assessment

After discussing its interest in PAS with the FEMA Regional Office, the Recipient must submit a request letter to its FEMA Regional Administrator. The request letter will indicate the activities the Recipient is interested in managing and will contain the supporting documentation that demonstrates that the Recipient has the ability to manage HMGP and the Recipient's commitment to mitigation. Upon receipt of the Recipient's PAS request letter and supporting documentation, the FEMA Regional Hazard Mitigation Assistance program staff and Mitigation Planning Senior Planner will review the request within 30 days. FEMA will assess the Recipient's request against the criteria provided in Tables 1 through 5. If FEMA determines that the Recipient meets the criteria, it will contact the Recipient to work on drafting an Operational Agreement (see Attachment B). FEMA may request additional information or documentation from the Recipient, if information is lacking. If the request is denied, FEMA will notify the Recipient with a letter explaining why the request was denied and procedures for Reconsideration (See Part VI.).

A. Disaster Declaration

Recipients can request PAS at any time (prior to submitting applications, during the application period, and even post-award for a particular declaration).

Recipients who are interested in delegation of grants management activities should contact their Regional Hazard Mitigation Assistance (HMA) representative prior to submitting a request letter to the FEMA Regional Office.

States who are interested in delegation of local mitigation plan approval should discuss their interest with the Risk Analysis Branch Senior Mitigation Planner prior to submitting a request letter to the FEMA Regional Office.

B. Non-Disaster Delegation of Local Mitigation Plan Approval

States can request PAS delegation of local mitigation plan approval even though they do not have a disaster declaration. The ability to delegate local mitigation plan approval authority is in 44 CFR Section 201.3(c)(6).

States who are interested in delegation of local mitigation plan approval should discuss their interest with the Risk Analysis Branch Senior Mitigation Planner prior to submitting a request letter to the FEMA Regional Office.

PART VI. Reconsideration

If a Recipient disagrees with any part of FEMA's PAS application determination, the Recipient may present FEMA with reasons it should be selected for PAS activities through a reconsideration process. The reconsideration process will be determined through consultation with FEMA and the Recipient. FEMA will re-evaluate the request against the criteria in Tables 1 through 5. Reconsideration requests must be in writing and contain supporting documentation or other relevant information that justifies the request for reconsideration.

PART VII. Operational Agreement

FEMA will develop an Operational Agreement (Agreement) with approved PAS Recipients that outlines agreed-upon delegations. The Agreement will define applicability, FEMA and Recipient responsibilities, and the process for suspending or terminating the program if FEMA determines that the Recipient is not administering HMGP or mitigation planning activities in a satisfactory manner. Sample agreements can be found in Attachment B.

A. Disaster Delegation

Because this is a pilot program, the Agreements will be tied to HMGP awards, with the exception of the non-disaster delegation of local mitigation plan approval, which may be agreed upon by FEMA and the Recipient without an HMGP award. Assigning PAS designations to HMGP awards will allow Recipients to build capability over time. FEMA is using the PAS Pilot to consult with Recipients to establish criteria for approval of an application to administer HMGP and develop program regulations to implement the PAS program.

Updated Agreements will be developed for each declared disaster for which a Recipient requests delegation of some elements of HMGP administration. Recipients with multiple open disasters may have separate agreements for each disaster and request different activities for each disaster. Disaster Agreements expire when the HMGP period of performance ends.

B. Non-Disaster Delegation of Local Mitigation Plan Approval

Assigning PAS designations outside of HMGP awards for local mitigation plan approval will allow States to build capability and partnerships that will support risk reduction efforts by establishing priorities for implementing mitigation strategies using a wide range of resources, including HMGP. It will also allow States who approve local mitigation plans under a disaster agreement to continue local mitigation plan approvals once the disaster Agreement has ended.

Non-disaster Agreements for approval of local mitigation plans are limited to 5 years. If a disaster declaration is received, the State must transition into a disaster Agreement. When a State is considering transitioning from a disaster to non-disaster or non-disaster to disaster Agreement, FEMA may use the amendment process provided for in the Agreement instead of requiring the State to submit a new or updated PAS request. The State's mitigation planning performance (as evaluated against Table 5) must be in good standing to transition to another type of Agreement. If FEMA and the State cannot settle upon a transition between a non-disaster and disaster agreement within a reasonable timeframe, FEMA will terminate the Agreement.

PART VIII. HMGP Administrative Plan

If approved for the PAS Pilot, the Recipient must update its HMGP Administrative Plan. Plans must outline those components the Recipient will administer under PAS, in accordance with the Hazard Mitigation Assistance (HMA) Guidance.

A. Disaster Delegation

The Recipient should update HMGP Administrative Plan by preparing a PAS addendum that provides a procedural guide that details how the Recipient will administer delegated activities. FEMA must review and approve this plan.

B. Non-Disaster Delegation of Local Mitigation Plan Approval

The State should develop a management plan or procedural guide that details how the State will administer the delegated activity of local mitigation plan approval. FEMA must review and approve this management plan or procedural guide.

PART IX. Delegation Options

Recipients participating in the PAS Pilot may opt to do many of the same activities they currently perform. However, final review and approval by FEMA will not be required in most cases.

Possible delegations include:

A. Application Review

Recipients will review and approve HMGP subapplicant applications and pre-award amendment requests using FEMA's expedited application approval process for obligating funds (see Attachment C).

Recipients using the expedited application approval process must submit a completed Minimum Criteria Checklist (see HMA Guidance 2015 Part IX, Appendix F, Minimum Criteria Checklist for Projects Subapplications and Appendix G, Minimum Criteria Checklist for Planning Subapplications) and Project Summary (see Attachment C) via an electronic data system provided by FEMA. Once FEMA receives these items, FEMA will start the process to award funds.

Recipients as part of the request can select one or all of the following:

- Project subapplications (all projects or selected projects)
- Planning subapplications
- Management costs, if the Recipient chooses to share Recipient management cost funding with subrecipients

For the subapplications reviewed, Recipients will approve funding of pre-award planning and project costs incurred by subrecipients.

B. Benefit-Cost Analyses

Recipients will review and approve benefit-cost analyses (BCAs) submitted by subrecipients without FEMA review.

Recipients will prepare their own BCAs without FEMA review.

C. Grants Management

Recipients will approve post-award subrecipient scope of work modifications (that have no change to the project activity and no resulting need for additional Federal funds) without FEMA review. The Recipient will submit an updated Minimum Criteria Checklist (see HMA Guidance Part IX, Appendix F, Minimum Criteria Checklist for Projects Subapplications and Appendix G, Minimum Criteria Checklist for Planning Subapplications) and Project Summary (see Attachment C) via electronic data systems provided by FEMA. Recipients will update quarterly progress reports accordingly.

Recipients will approve time limit extensions for subapplications with no impact to the recipient's HMGP award period of performance. Recipients will document these changes in quarterly reports and electronic data systems.

Recipients will administer HMGP for specific project types submitted by the subrecipient, including property acquisition and structure demolition, wildfire mitigation, safe rooms, structural elevation, or other eligible hazard mitigation project types.

D. Fiscal Management

Without prior approval from FEMA, Recipients will approve post-award budget revisions using funds available as a result of cost underruns from other approved subawards. These funds can be moved to approved subawards with cost overruns. Funds can only be used within the same HMGP award. Prior to its approval, the Recipient must determine if the project meets eligibility requirements, including cost-effectiveness and cost share. The Recipient will update project files with an updated Minimum Criteria Checklist for Project/Planning Subapplications. The Recipient will update and submit the Project Summary using electronic data systems provided by FEMA and will update quarterly progress reports accordingly.

Recipients will determine the eligible amount of reimbursement for each subrecipient claim and process payment without approval from FEMA.

E. Mitigation Planning

States participating in PAS will approve local mitigation plans using the process described in Part XI. State Approval of Local Mitigation Plans. FEMA will continue to send final approval letters in accordance with the Local Mitigation Plan Review Guide (October 2011). When tribes participate in multi-jurisdictional plans with local governments, FEMA will also review the plan for compliance with tribal mitigation plan requirements in accordance with 44 CFR Section 201.7 and send final approval letters to tribes.

PART X. Environmental Review

For the PAS Pilot, the environmental planning and historic preservation (EHP) review of HMGP subapplicant applications and pre-award amendments and subrecipient post-award amendments will not be delegated to the Recipients. The statutory provision for the PAS Pilot does not provide sufficient authority to delegate EHP review to Recipients for compliance with HMGP eligibility and EHP requirements. FEMA has final review and approval authority on the environmental impact of any proposed Federal action or undertaking. However, Recipients may assist FEMA with preparation for environmental review (see HMA Guidance Part II. Frontloading HMA Program Eligibility Requirements). Those delegable responsibilities include completing project scope, describing the proposed activity, and providing background information for assessing the environmental impact of the Federal action on historic properties, endangered and threatened species, critical habitats, wetlands, floodplains, and on low-income and minority populations. Recipients should work with their subapplicants/subrecipients to evaluate and document environmental and cultural resource information involved with the proposed HMGP projects to consider alternatives to avoid, minimize, and/or mitigate potential adverse impacts to the human environment and to integrate sustainable practices as early as possible in project formulation.

Before approving any subapplicant applications and pre-award amendments and subrecipient post-award amendments, Recipients must coordinate with FEMA Regional environmental planning and historic preservation (EHP) staff to receive EHP clearance for approving HMGP subapplications and pre-award amendments and post-award amendments. HMGP funds cannot be obligated until FEMA has completed the environmental review process. The Minimum Criteria Checklist for Planning and Project Subapplications in the HMA Guidance (2015) and the Project Summary (see Attachment C) that Recipients agree to submit will provide the FEMA Regional EHP with the information needed to complete EHP review in most cases. Recipients will be required to submit to FEMA Regional EHP staff any additional information or documentation needed for FEMA to complete the review. Recipients must coordinate with the subapplicant/subrecipient to obtain any additional information.

PART XI. State Approval of Local Mitigation Plans

A national panel comprised of FEMA Headquarters and/or Regional Mitigation Planning and HMA staff, will review the State's initial request for delegation of local mitigation plan review approval.

After review of the request is completed, FEMA Mitigation Planners and the State will conduct a joint review of local mitigation plans. The intent is to ensure that a common understanding of the process and procedures related to local mitigation plan review and approval are completed in accordance with the Local Mitigation Plan Review Guide (October 2011). There are several sections of the Plan Review Tool such as the Plan Assessment that are completed by FEMA and will have to be completed by the State. The joint reviews are intended to provide technical assistance in completing these sections. The length of the joint review period will be negotiated between FEMA and the State. The joint reviews are intended for the first plans approved under the Agreement or may involve review of past plans when new plan submissions are not available.

If States request delegation of local mitigation plan approvals, they are expected to complete the following activities:

1. States will review and approve local mitigation plans within 45 days of receipt, whenever possible.
2. States will notify FEMA when a local mitigation plan is approved and adopted and provide the following items to FEMA:
 - Copy of the plan
 - Copy of the completed Local Mitigation Plan Review Tool (provided in the [Local Mitigation Plan Review Guide](#))
 - Copies of the adoption resolutions or documentation
 - State's approval/approvable pending adoption notification to State
 - Local jurisdiction contact information
3. States will be required to send monthly updates to the FEMA Regional Mitigation Planning office, describing plan approval status, status of plan reviews, technical assistance activities, and scheduled training.

FEMA will continue to send final approval letters in accordance with the Local Mitigation Plan Review Guide (October 2011).

A. Disaster Delegation

States can request delegation of local mitigation plan approval under an HMGP award issued as part of a disaster declaration.

B. Non-Disaster Delegation of Local Mitigation Plan Approval

States can request delegation of local mitigation plan approval when there is no open disaster declaration.

PART XII. Performance Monitoring

FEMA will perform monitoring visits and provide tools and training as needed. FEMA's monitoring program will vary depending on the size and scope of the HMGP award and the activities that are delegated to the Recipient. As agreed to in the operational agreement, FEMA staff will conduct an overall review to determine if processes agreed to in the Operational Agreement and Administrative Plans or Management Plans are being followed. Monitoring visits will occur at least once a year. After the monitoring visit is complete, FEMA will provide the Recipient with a monitoring report. FEMA will work with the Recipient to resolve any issues.

A. Disaster Delegation Grants Management Activities

Ongoing monitoring activities will be centered on the quarterly reporting periods. FEMA Regional offices will evaluate the Recipient's performance quarterly by reviewing award application data, quarterly or monthly reports, fiscal management processes, staffing allocations, changes in key personnel, and subaward procedures and processing. Annually, or as needed, FEMA will also conduct more in-depth monitoring activities either on site or through desk reviews.

Monitoring visits will most likely coincide with grants management activity. For example, if a Recipient is delegated application review, FEMA might conduct a review at the half-way point of the application period to ensure compliance. Review frequency can be addressed during the drafting of the Agreement.

During a second level review (desk review or site visit), FEMA will review project files for documentation compliance. For those Recipients requesting delegation of fiscal activities, the Recipient's audit report will be reviewed and fiscal testing system may be used by FEMA to follow up on concerns identified in the audit. As part of monitoring activities, FEMA Regional Staff may also interview Recipient staff working on HMGP as part of the PAS Pilot and subrecipients as needed to learn how the program is being managed from their perspective. Using questions from a data collection plan prepared by FEMA for evaluation of the PAS Pilot, FEMA will interview subrecipients to collect data to evaluate the effectiveness of the PAS Pilot.

B. Disaster Delegation of Local Mitigation Plan Approval

Ongoing monitoring activities will be centered on the monthly updates provided to the FEMA Regional Mitigation Planner who will evaluate the State's performance by reviewing plan status data, technical assistance activities and any changes in key personnel.

If local mitigation plan approval is delegated to the States, FEMA Regional Mitigation Planning staff will conduct monitoring activities and make determinations regarding compliance. FEMA will conduct a plan review audit of every ten plans reviewed. After ten plans are submitted to FEMA, FEMA will randomly select one of the last ten plans reviewed for an audit. If less than ten plans are reviewed in a year, FEMA will randomly select one of the plans reviewed during the past year. FEMA must complete at least one plan review audit each year.

C. Non-Disaster Delegation of Local Mitigation Plan Approval

Ongoing monitoring activities will be centered on the monthly updates provided to the FEMA Regional Mitigation Planner who will evaluate the State's performance by reviewing plan status data, technical assistance activities and any changes in key personnel.

If local mitigation plan approval is delegated to the States, FEMA Regional Mitigation Planning staff will conduct monitoring activities and make determinations regarding compliance. FEMA will conduct a plan review audit of every ten plans reviewed. After ten plans are submitted to FEMA, FEMA will randomly select one of the last ten plans reviewed for an audit. If less than ten plans are reviewed in a year, FEMA will randomly select one of the plans reviewed during the past year. FEMA must complete at least one plan review audit each year.

PART XIII. Non-Compliance

Recipients will be expected to continue to maintain performance as agreed to in the Operational Agreement and Administrative Plan or the management plan for the non-disaster option for review of local mitigation plans. Recipients will maintain the performance levels under which they were evaluated for PAS status. If FEMA finds significant declines in performance, FEMA will provide the Recipient information regarding the consequences for non-compliance, including the circumstances in which PAS status can be revoked.

PART XIV. Revocation of PAS Status

FEMA will discuss with the Recipient any findings from monitoring that may require remediation. The Recipient must provide a plan and timeline to address the findings within 30 days of notice from the Region. If the corrective measures are not implemented or cannot be implemented within a reasonable timeframe, FEMA will notify the Recipient of the options available, including possible revocation of the PAS status.

PART XV. Subapplicant or Subrecipient Appeals

The HMGP appeals process will not change under PAS. FEMA will continue to review appeals from subapplicants and subrecipients regarding eligibility of activities and/or costs (44 CFR Section 206.440).

PART XVI. Financial Statement Audit

Recipients are responsible for obtaining annual audits in accordance with 2 CFR Part 200, Subpart F Audit Requirements. The financial audit determines if the Recipient's financial documentation and processes are consistent with generally accepted accounting principles. These audits will help FEMA determine whether HMGP funds are spent in accordance with program regulations and Program Administration by State Pilot guidance. For Recipients with HMA awards, annual audits are required regardless of where the Recipient is in the grants management process.

PART XVII. Program Audit

Program audits are an impartial review of program documents to provide an independent assessment of the performance of HMGP. Because this is a pilot program, FEMA anticipates that a program audit may be completed to determine the effectiveness of the PAS Pilot. The information in such an audit will be used to help improve the provision of funds under HMGP and report on program performance. FEMA and the Office of the Inspector General will continue to conduct program audits of HMGP.

PART XVIII.High-Risk Recipient

States, tribes or territories that are classified as high-risk recipients per 44 CFR Section 200.205 cannot participate in or request PAS delegation because FEMA has determined the Recipient has a documented history of unsatisfactory performance. High-risk recipients receive additional project monitoring and require additional FEMA approvals to conduct award activities.

PART XIX. Roles and Responsibilities

The PAS Pilot is administered through a coordinated effort between FEMA and the Recipient. While both entities must work together to meet the overall objective of streamlined program delivery, each has different roles.

FEMA will:

1. Provide a process for application for PAS privileges as well as evaluation criteria
2. Provide appropriate guidance on requirements of any delegated responsibilities noted in the Administrative Plan
3. Receive and approve the Administrative Plan or management plan for non-disaster option for review of local mitigation plans
4. Monitor Recipient performance by reviewing quarterly reports and or monthly planning reports.
5. Monitor Recipient performance through periodic evaluations to ensure PAS activities comply with program requirements
6. Conduct EHP reviews

Recipients must:

1. Incorporate PAS delegated functions into the Administrative Plan or management plan for non-disaster option for review of local mitigation plans
2. Formulate hazard mitigation objectives based on the strategy in the FEMA-approved mitigation plan and any more recent information / data
3. Decide how to distribute funds based on priorities established by the mitigation planning process
4. Adhere to all applicable HMGP statutes and regulations, including current guidance regarding HMGP administration
5. Meet all specified timelines
6. Maintain a continuing capacity to manage HMGP
7. Retain documentation for FEMA quarterly audit reviews

PART XX. Evaluation

To determine the effectiveness of the PAS Pilot, a review team composed of Recipient and FEMA representatives will conduct an evaluation. For Recipients that participate, an evaluation will be conducted 6 years after the program starts. This evaluation will be different from the monitoring and auditing activities and will focus on the program as a whole rather than Recipient performance. This team will evaluate the level of success of the PAS Pilot based on the previously identified program evaluation criteria, identify pilot components that worked well, and make recommendations for any needed improvements or changes.

Performance metrics used to evaluate the PAS Pilot include measuring if Recipient administered programs are more efficient than traditional run programs. Specifically, they will be used to help evaluate if the program increased or decreased costs to administer HMGP, expedited or delayed obligations and project completions, and contributed to the overall effectiveness of the program.

PART XXI. Delegated Activity Tables

Tables 1 to 5 that follow address each delegated activity category. These tables provide a measurement item and/or target to document past performance for the specified delegated activity type. Recipients must meet the required measurement for PAS approval. In reviewing Recipient requests for PAS participation, FEMA will only assess tables for delegated activities requested by the Recipient.

A. Timeframe for Past Performance

For the most part, FEMA will review the past performance of the last four quarters submitted to FEMA prior to receiving the Recipient request. FEMA may extend this timeframe when insufficient data are available and these extensions will be noted when needed. For Recipients updating their PAS status for a new disaster declaration, FEMA will use the last four quarterly reports submitted prior to the disaster declaration.

B. Data Needed in Recipient Request Letter

The amounts and types of data needed to support the Recipient request will vary based on the types of delegated activities selected. Recommended data elements are noted in each table. Recipients may submit other data they determine may be necessary to support their request. FEMA will supplement its review of the request with grants management data for the Recipient.

Table 1: Application Review Delegated Activities

1. Review and approve Hazard Mitigation Grant Program (HMGP) subapplications and pre-award amendment requests using FEMA’s expedited application approval process for obligating funds. Recipients can select one or all of the following:
 - a. Project subapplicants (all projects or selected projects)
 - b. Planning subapplications
 - c. Management costs, if the Recipient chooses to share Recipient management cost funding with subrecipients

(Note: If a Recipient chooses a subset of project types, FEMA will only evaluate related subapplications. For example, FEMA would only review structural elevation subapplications when the Recipient requests delegated review limited to structural elevation subapplications.)
2. Approve funding of pre-award planning and project costs incurred by subrecipients.

Application Review Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Administrative Plan</u>			
Documentation: List of declared disasters, HMGP grants, and plan approval dates			
Administrative Plan is approved by FEMA within 90 days of the declaration date. This will be a requirement for disasters declared since April 1, 2013. ¹			
<u>Electronic Data Systems</u>			
Documentation: List of subapplications, document applications that were submitted electronically			
All applications are entered into FEMA’s electronic data systems (such as NEMIS and or eGrants). ²			

¹ **Administrative Plan.** Early approval of the Administration Plan is required because the plans describe how the State, Tribe or Territory will notify potential subapplicants of HMGP availability, provide technical assistance to potential subapplicants, determine subapplicant eligibility, and review and prioritize applications. FEMA needs to evaluate this information before application development starts.

² **Data Systems.** National Policy standards, such as the Government Performance and Results Act and Federal Funding Accountability and Transparency Act, require Federal agencies to keep electronic data on grants for reporting purposes. These systems collect the basic data needed to be stored within FEMA records.

Application Review Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Application Eligibility and Completeness³</u>			
Documentation: List of subapplications and amendments for HMGP, Pre-Disaster Mitigation (PDM), and Flood Mitigation Assistance (FMA); date application submitted by Recipient; date approved by FEMA; notation of whether Minimum Criteria Checklist was provided to FEMA.			
1. Minimum Criteria Checklist for Planning or Project Subapplications is prepared for all subapplications. ⁴			
2. All subapplications and amendments are determined to be complete by FEMA within 90 days of submittal or selection for further review. Required EHP reviews and consultations will not be included in the 90-day timeframe calculation.			
<u>Grant Application Extensions</u>			
Documentation: List of HMGP, PDM, and FMA grants; application deadline date, if applicable; date request of extension requested, if applicable.			
Any request to extend the application period was submitted at least 30 days prior to the end of the expiration of the application period.			
<u>Training</u>			
Documentation: Staffing organizational chart or roster, a summary listing of training completed within the past 5 years as provided by Hazard Mitigation Officer or Training Officer.			
1. Staff managing application development under PAS have completed E212 Unified Hazard Mitigation Assistance Course and other Hazard Mitigation Assistance–related courses.			
2. Staff managing application development under PAS have completed IS-253 Coordinating Environmental and Historic Preservation Compliance.			

³ **Application Eligibility and Completeness.** Application packages are complete and include appropriate supporting documentation. Proposed activities are eligible and meet program requirements for project types.

⁴ **Minimum Criteria Checklist.** Both the 2013 and 2015 HMA Guidance provide checklists for planning and project subapplications. Applicants should use the checklist based on the related guidance for their HMGP, FMA, or PDM award. The HMA Application Review Tool was optional in 2011.

Table 2: Benefit-Cost Analyses Delegated Activities

1. Review and approve benefit-cost analyses (BCA) submitted by subrecipients without FEMA review.
2. Prepare own BCA without FEMA review.

Benefit-Cost Analyses Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Benefit-Cost Analysis</u> ⁵			
Documentation: List of subapplications and amendments (Hazard Mitigation Grant Program [HMGP], Pre-Disaster Mitigation [PDM], Flood Mitigation Assistance [FMA]), date BCA submitted, date reviewed and accepted as correct by FEMA.			
All applications and amendments are determined to be completed by FEMA within 90 days of submittal or selection for further review, including all data requested by FEMA to support cost-effectiveness determinations. Required EHP review and consultations will not be included in the 90-day review timeframe calculation.			
<u>Training</u>			
Documentation: Staffing organizational chart or listing, a summary listing of training completed within the past 5 years as provided by Hazard Mitigation Officer or Training Officer.			
1. Recipient staff who will prepare or review BCAs under PAS operational agreement have completed a FEMA BCA course (E276 Benefit Cost Analysis Entry Level Training or its equivalent). Staff should complete modules for project types or hazards anticipated within Recipient. Completion of all modules is not required. ⁶			
2. Recipient staff who have prepared BCA documentation have completed E212 Unified Hazard Mitigation Assistance Course, or its equivalent.			

⁵ **Benefit-Cost Analyses.** Recipients use FEMA-approved methodologies and software to demonstrate the cost-effectiveness of their projects. Supporting documentation must be from credible sources as identified in regulations and guidance.

⁶ **Benefit-Cost Training.** The benefit-cost analysis training has several modules for different natural hazards. Field-delivered courses usually only cover three modules.

Table 3: Grants Management Delegated Activities

1. Approve post-award subrecipient scope of work modifications (that have no change to the project activity and no resulting need for additional Federal funds) without FEMA review. Submit an updated Minimum Criteria Checklist and Project Summary via electronic data systems provided by FEMA. Update quarterly progress reports accordingly.
2. Approve time limit extensions for subawards with no impact to the Hazard Mitigation Grant Program (HMGP) award period of performance. Document these changes in quarterly report and electronic data systems.
3. Administer HMGP for specific project types submitted by the subrecipient, including property acquisition and structure demolition, wildfire mitigation, safe rooms, structural elevation, or other eligible hazard mitigation project type.

Grants Management Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Grant Extensions</u> Documentation: List of HMGP, Pre-Disaster Mitigation (PDM), and Flood Mitigation Assistance (FMA) awards and period of performance deadlines. Date of extension requests, if applicable.			
All work as part of Hazard Mitigation Assistance (HMA) subawards must be completed by the end of the period of performance as described in HMA Guidance.			
<u>Recipient Progress Reports</u> Documentation: Dates progress reports were submitted to FEMA. Documentation of extension approvals, if applicable.			
All progress reports must be complete and submitted on time. Information in the reports must accurately describe grant activities, including data related to the completion of individual property acquisitions. Incomplete progress reports that do not provide information on all open awards and subawards or include all information required by HMA Guidance are not considered on time.			
<u>Subaward Closeout Activities</u> Documentation: Listing of all subawards that were closed out by the Recipient. Hazard Mitigation Officer certifies that subawards were closed out within 90 days from the end of the period of performance. Because these data are found in Recipient files, FEMA will review findings from FEMA monitoring and closeout reports.			

Grants Management Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
All subaward closeout activities, including financial reconciliation, are completed within 90 days from the end of the period of performance.			
Actual expenditures have been documented and are consistent with SF-424A or SF-424C.			
<u>Award Closeout</u> All award closeout activities, including financial reconciliation are completed within 90 days from the end of the performance period. Documentation: Dates documents submitted to FEMA. Period of performance deadlines for respective HMGP, PDM, and FMA grants.			
1. Final Financial Report (FFR) SF-425 and Performance Reports were submitted within 90 days from the end of the performance period.			
2. Statement submitted that approved Scope of Work and all EHP requirements have been satisfied.			
3. SF-270 Request for Advance or Reimbursement or request to de-obligate funds is completed, if applicable due to cost underruns.			

Table 4: Fiscal Management Delegated Activities

1. Without prior approval from FEMA, approve post-award budget revisions using funds available as a result of cost underruns from other approved subawards. These funds can be moved to approved subawards with cost overruns. Funds can only be used within the same Hazard Mitigation Grant Program (HMGP) award.
2. Prior to approval, determine whether the project meets eligibility requirements, including cost-effectiveness and cost share. Submit an updated Minimum Criteria Checklist and Project Summary via electronic data systems provided by FEMA. Update quarterly progress reports accordingly.
3. Determine the eligible amount of reimbursement for each subaward claim and process payment without approval from FEMA.

Fiscal Management Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Federal Financial Reports (FFR SF-425) prepared by Recipient</u> Documentation: Dates FFR SF-425 was submitted to FEMA. Documentation of extension approvals, if applicable.			
All Federal Financial Reports are submitted on time. Information in reports projects an accurate picture of grant activities.			
<u>Recipient Financial Management Systems</u> Documentation: Narrative describing financial management.			
Recipient consistently complies with the Financial Management Standard requirements described in 2 CFR Sections 200.300 to 200.309.			
<u>Recipient Financial Statement Audit</u> Documentation: Date of last audit; summary of findings for Hazard Mitigation Assistance (HMA) programs, if applicable; narrative on how Recipient addressed findings, if applicable.			
No major findings on last single audit obtained by the Recipient related to HMA programs. For Recipients without HMA grants, FEMA will review other Federal grants prepared by the responsible agency (i.e., State, Tribal or Territorial Emergency Management Agency).			

Fiscal Management Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<p><u>Closeout Activities</u></p> <p>The following will be measured on HMGP, Pre-Disaster Mitigation (PDM), and Flood Mitigation Assistance (FMA) awards that have been closed out.</p> <p>Documentation: Dates closeout documentation was submitted to FEMA. Period of performance deadline for respective HMA awards.</p>			
<p>All award closeout activities, including financial reconciliation are completed within 90 days from the end of the performance period, including:</p> <ol style="list-style-type: none"> 1. Final FFR SF-425 and Performance Reports were submitted within 90 days from the end of the performance period. 2. Statement that Scope of Work(s) has been completed as approved and all EHP requirements have been satisfied. 3. SF-270 Request for Advance or Reimbursement or request to de-obligate funds is completed, if applicable due to cost underruns, was submitted on time. 4. Other documentation as required in the HMA Guidance. 5. No drawdowns requested or performed after the liquidation period has ended. 			

Table 5: Mitigation Planning Delegated Activities (Disaster and Non-Disaster Agreements)

4. Approve local mitigation plans using the process described below; FEMA will send final approval letters in accordance with the Local Mitigation Plan Review Guide (October 2011). FEMA will continue to send final approval letters to tribal communities when included in a multi-jurisdictional plan.
5. Panel Review: A national panel comprised of FEMA Headquarters and/or Regional Mitigation Planning and HMA staff, will review the State’s initial request for delegation of local mitigation plan review approval.

Mitigation Planning Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
<u>Plans are Approvable Pending Adoption</u> Documentation: Listing of local mitigation plans submitted to FEMA, noting which plans were approvable pending adoption (no required revisions).			
All local mitigation plan reviews are approvable pending adoption (no required revisions) following their initial review by FEMA. If fewer than six plans have been submitted within the last four quarters, the six most recent plan reviews will be used to make this determination.			
<u>Mitigation Planning Training</u> Documentation: Staffing organizational chart or listing, a summary listing of staff who have completed training within the past 5 years as provided by Hazard Mitigation Officer or Training Officer. A summary of staff experience or education can be provided to document equivalent experience.			
Staff who will be performing or managing local mitigation plan review under the PAS Pilot have completed G-318: Local Mitigation Planning Workshop or IS-318 Mitigation Planning for Local and Tribal Communities and IS-328 Plan Review for Local Mitigation Plans, or equivalent.			
<u>Guidance and Regulations</u> Documentation: Staffing organizational chart or listing, summary of staff experience as documented by Hazard Mitigation Officer or manager of mitigation planning review.			

Mitigation Planning Delegated Activities Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
States document that staff dedicated to mitigation planning understand and have experience interpreting and implementing mitigation planning guidance and 44 CFR Part 201 Mitigation Planning regulations.			
<p><u>Administration of Mitigation Planning Activities</u></p> <p>Mitigation planning regulations include standards for managing States, where mitigation planning regulations refer to the Stafford Act provisions for Program Administration by States (PAS) (Section 404(c)). Under this pilot, States will be required to address these standards.</p> <p>Documentation: Narrative as needed.</p>			
1. <u>Resources:</u> The funding used to develop local mitigation plans, including HMGP, has been documented. (44 CFR Section 201.4(c)(4))			
2. <u>Staff:</u> The capacity and capability of the mitigation planning staff to adequately provide consistent plan review, satisfactorily determine plans are approval pending adoption, and technical assistance has been documented.			
3. <u>Technical Assistance and Training Program:</u> The process used to conduct plan review as well as the process to provide technical assistance and training to plan developers and to build local mitigation capability has been documented. (44 CFR Section 201.3(c)(5))			
4. <u>Administration:</u> The State has documented how they will conduct local mitigation plan reviews within the 45-day review period, whenever possible, provide a copy of the plan to FEMA, and provide a monthly status report to FEMA that includes plan approval status, status of plan reviews, technical assistance activities, and training scheduled. (44 CFR Section 201.6(d)(4))			

Table 6: Commitment to Mitigation

Two Review Parts
<p>The review of Commitment to Mitigation has two parts. The first part addresses the Recipient’s ability to manage the HMGP and Mitigation Planning programs. The second part addresses the Recipient’s ability to support mitigation practices and activities statewide.</p>
Part One for Disaster Declaration: Grants Management Experience
<p>In the request letter, Recipients should provide information to support that it:</p> <ol style="list-style-type: none"> 1. Staffs HMGP such that there are in-house or contract staff responsible for all elements, including delegated activities throughout the HMGP grant lifecycle 2. Manages HMGP resources so it can conduct the standard and delegated activities throughout the HMGP grant cycle 3. Provides technical assistance to communities and eligible subapplicants such that they are then able to perform the function for which they requested assistance 4. Uses an effective management plan to administer HMGP and Mitigation Planning programs such that post-disaster mitigation activities derive from pre-disaster mitigation planning, and that these activities are executed in a systematic, organized fashion that ensures compliance with HMGP requirements and regulations
Part One for Approval of Local Mitigation Plans: Mitigation Planning Experience to support HMGP
<ol style="list-style-type: none"> 1. Staffs the Mitigation Planning program such that there are in-house or contract staff to adequately provide training, technical assistance, as well as plan review and approvals 2. Manages HMA program resources so it can provide funding to develop/update local mitigation plans 3. Provides training and technical assistance to communities and eligible subapplicants such that they are then able to develop an approvable local mitigation plan 4. Uses an effective management plan to administer Mitigation Planning programs to identify long-term, broadly supported strategies for risk reduction and identify implementation approaches for future HMGP awards.
Part Two: Mitigation Practices and Activities
<p>Recipients with Enhanced Mitigation Plan</p> <p>Recipients have an approved Enhanced Mitigation Plan. Submit date of FEMA-approved plan.</p>
<p>Recipients with Standard Mitigation Plan</p> <p>Recipients should provide information that describes an existing comprehensive mitigation program that might include, but is not limited to, examples listed in the mitigation planning regulation 44 CFR 201.5(b)(4).</p> <p>Comprehensive mitigation program means a broad range of Recipient-supported initiatives and activities that:</p> <ul style="list-style-type: none"> • Target risk reduction for each of the identified hazards in the Recipient • Is inclusive of various governmental agencies and sectors with mitigation capabilities and resources • Is coordinated to increase the State, Tribe or Territory’s resilience from the adverse impacts of future hazard events <p>Initiatives and activities that demonstrate commitment include but are not limited to, a combination of current training, partnerships, leadership initiatives, funding, technical assistance, codes and ordinances, or other activities that reduce risk.</p>

Attachment A – Example Recipient Request Letter

[DATE]

FEMA Region [##]

[STREET]

[CITY, STATE ZIP CODE]

Request for Program Administration of Hazard Mitigation Grant Program (HMGP) – FEMA-[XXXX]-DR

Pursuant to Section 404(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170(c)(2) as amended by Section 1104. HAZARD MITIGATION of the Sandy Recovery Improvement Act of 2013 (Public Law 113-2) “(b) ESTABLISHMENT OF CRITERIA RELATING TO ADMINISTRATION OF HAZARD MITIGATION ASSISTANCE BY STATES.—Section 404(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170(c)(2) is amended by inserting after “applications submitted under paragraph (1).” The following: “Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program.”, [RECIPIENT NAME] requests consideration for inclusion in the PAS Pilot for FEMA-[XXXX]-DR.

- The requested PAS status is only applicable for the above disaster FEMA-[XXXX]-DR declared [DATE].
- Delegation of the following HMGP responsibilities is requested:

Possible HMGP Delegations to [RECIPIENT NAME]	Request insert “X”
Review and approve HMGP subapplicant application and amendment requests using FEMA’s expedited application approval process and project summaries for obligating funds (see Attachment C). Select one or all of the following: <ul style="list-style-type: none"> • Project subapplications (all projects or selected projects) • Planning subapplications • Management costs, subapplications if the Recipient chooses to share Recipient management cost funding with subrecipient 	
Approve funding of pre-award planning and project costs incurred by subrecipients.	
Review and approve benefit-cost analyses (BCAs) submitted by subrecipients without FEMA review. Prepare own BCA without FEMA review.	

Possible HMGP Delegations to [RECIPIENT NAME]	Request insert "X"
Approve time limit extensions for subawards with no impact to HMGP award period of performance. Document these changes in quarterly report and electronic data systems.	
Approve post-award scope of work modifications with no change to the project activity and no resulting need for additional Federal funds without FEMA approval.	
Administer HMGP for specific project types submitted by the subrecipient. [Indicate project types selected, such as property acquisition and structure demolition, wildfire mitigation, safe rooms, structural elevation, or other eligible hazard mitigation project type.]	
Without prior approval from FEMA, approve post-award budget revisions using funds available as a result of cost underruns from other approved subawards. These funds can be moved to approved subawards with cost overruns. Funds can only be used within the same HMGP award.	
Determine the eligible amount of reimbursement for each subrecipient claim and process payment without approval from FEMA.	
Approve local mitigation plans. FEMA will continue to send final approval letters to local and tribal communities when part of a multi-jurisdictional plan.	

- [RECIPIENT NAME] has a current [STATE OR TRIBE] [STANDARD OR ENHANCED] Hazard Mitigation Plan dated [DATE].
- [RECIPIENT NAME] has demonstrated ability to administer and manage HMGP:

Recipients should refer to Tables 1 through 5 to find out what information and data should be included in this section. The information will vary depending on the activities selected.

- [RECIPIENT NAME] has demonstrated commitment to mitigation activities by the following projects/actions:

Recipients should refer to Table 6 to find out what information should be included in this section. There are two parts: 1) Grant Management Experience and 2) Mitigation Practices and Activities.

As a participant under the PAS Pilot program, the [RECIPIENT NAME] agrees to enter into an Operational Agreement with FEMA. For each disaster for which the [RECIPIENT NAME] chooses the PAS Pilot option, the Recipient agrees to update the HMGP Administrative Plan to address all activities that FEMA will delegate to the Recipient.

If further information is required, please contact the Hazard Mitigation Officer at [PHONE NUMBER] or by e-mail at [E-MAIL ADDRESS] for additional assistance.

Sincerely,

Governor’s Authorized Representative or Chief Executive’s Authorized Representative

Attachment B – Program Administration by States Pilot Operational Agreement

A. Purpose

The purpose of this Operational Agreement (Agreement) between the Federal Emergency Management Agency (FEMA) and the [RECIPIENT NAME] Emergency Management Agency (Recipient) is to implement the Pilot Program Administration by States (PAS Pilot) under the Hazard Mitigation Grant Program (HMGP) as authorized in the Stafford Act, Section 404(c) (42 U.S.C. § 5170c), as amended by the Sandy Recovery Improvement Act of 2013 (P.L. 113-2). This document defines the roles and responsibilities, procedures, and processes in effect under this Agreement. The Agreement, as an addendum to the FEMA/[STATE OR TRIBAL] Agreement, will assist FEMA and participating Recipients in evaluating the PAS Pilot by designating [RECIPIENT NAME] as a pilot PAS Recipient for implementation of the delegations noted in this document for Disaster Declaration FEMA-[XXXX]-DR.

B. Delegated Activities

Under this arrangement, Recipient will manage:

[INSERT LIST OF DELEGATED ACTIVITIES]

C. FEMA Authority

FEMA will retain authority to obligate funds and the final approval of environmental and historic preservation reviews. FEMA will assist Recipient in the activities delegated to the extent that such assistance is necessary and is specifically requested by Recipient. The PAS Pilot should be cost effective, maintain a high level of customer service, and provide consistency within the Recipient's implementation of HMGP. In designating [RECIPIENT NAME] as a PAS Recipient, both FEMA and Recipient agree to adhere to the provisions outlined in this Agreement.

D. Applicability

This Agreement applies to the administration of HMGP under Disaster Declaration FEMA-[XXXX]-DR and is effective upon date of signature by both parties. Recipient may apply the procedures in this Agreement to any eligible project under this Disaster Declaration not yet submitted to FEMA.

Under this Agreement, all applicable laws, Executive Orders, regulations, Office of Management and Budget Circulars, and FEMA policies and guidance remain in effect. The Agreement specifies any deviations from procedures in current regulations and guidance made as part of the PAS Pilot. This Agreement will incorporate any changes to applicable law or FEMA regulation published after the Agreement's effective date.

Recipient or FEMA may request amendments to the Agreement at any time. Both signatories must sign amendments to the Agreement.

E. Statement of Work

Recipient shall perform the work required in Exhibit A (the Work).

F. Key Personnel and Level of Effort

The Recipient shall assign the following staff as Key Personnel for this Work.

Staff Member/Title	General Program Duties	Time Allocation
[FILL-IN]	[FILL-IN]	[FILL-IN]

The Recipient’s performance under this Agreement shall be under the direction of the positions identified above that are considered essential to the Work. The full-time equivalent level of effort, at a minimum, as specified in the Work shall be devoted by the Recipient. Substitutions or substantial reductions in level of effort will only be for compelling reasons, and may affect the delegations provided by FEMA (i.e., work completed, closeout of grants). The Recipient shall notify FEMA of any pending changes and its plans to maintain the same level of effort.

G. Quarterly Progress Reports

The Recipient shall furnish FEMA with quarterly progress reports to document tasks accomplished under this Agreement and will submit these reports to FEMA’s Regional Office on January 30, April 30, July 30, and October 30. The reports shall include sufficient information to provide a realistic and timely description of the progress made in implementing the HMGP award. The Recipient shall also describe progress made under this Agreement as part of the regular progress reports.

[ADD IF APPROVAL OF LOCAL MITIGATION PLANS IS DELEGATED] The State shall furnish FEMA with monthly report to FEMA that describes the status of plan reviews, technical assistance activities provided to local governments, and training scheduled for local governments.

H. Monitoring

The Recipient may receive onsite reviews or desk audits from FEMA. FEMA Regional monitoring staff may review project and or financial activity related to the terms of this Agreement. FEMA will provide the Recipient with 48-hour notice of any onsite review. The Recipient shall provide FEMA with information needed to enable FEMA to perform monitoring functions.

I. Record Retention

The Recipient shall retain supporting documents and other records pertinent to this Agreement until the HMGP Disaster Declaration FEMA-[XXXXX]-DR award is closed out. This Agreement should not change

any requirements in the FEMA-Recipient Agreement or other associated program requirements with the Declaration, which may require certain documentation to be maintained 3 years after award closeout.

J. Program Deficiencies

Through audits, reviews, monitoring, or other means, FEMA may find the Recipient to have program deficiencies in the performance of the Work. If deficiencies are found, FEMA may require the Recipient to take corrective action and to submit a written corrective action plan to address identified deficiencies. Any corrective action must be satisfactorily completed within 30 days of FEMA's acceptance of the plan unless otherwise agreed.

FEMA may require Recipients to submit additional periodic written verification that measures have been taken to implement any corrective action. If the Recipient fails to demonstrate its compliance with the approved corrective action plan within the agreed upon time constraints, FEMA has the discretion to exercise its rights to terminate this Agreement. FEMA may also exercise any of the other rights and remedies available to it by law.

K. Federal Compliance

The Recipient shall comply with all applicable Recipient and Federal statutes, laws, rules, and regulations in the performance of this Agreement, even if they are not referenced in the Agreement unless this Agreement or the PAS Pilot guidance specifies a different procedure than required by the regulations.

L. Roles and Responsibilities

The Agreement primarily articulates the roles and responsibilities that FEMA is delegating to the Recipient for accomplishing program requirements. Generally, Recipient assumes responsibility for management of:

[INSERT DELEGATED RESPONSIBILITY #1]

[INSERT DELEGATED RESPONSIBILITY #2]

M. Special Conditions

[THIS SECTION OF THE AGREEMENT CAN BE USED BY THE RECIPIENT AND FEMA TO INCLUDE SPECIAL CONSIDERATIONS FOR THE PARTICULAR DELEGATED ACTIVITY.]

N. General Conditions

General Compliance. The Recipient agrees to comply with the requirements 44 CFR Subpart N (*Hazard Mitigation Grant Program*) unless this Agreement or the PAS Pilot guidance specifies a different procedure than required by the regulations.

Amendments. The Recipient or FEMA can amend this Agreement at any time provided that such an amendment makes reference to this Agreement and is executed in writing and signed by representatives from both parties. Any amendments shall not invalidate the rest of the Agreement nor relieve the Recipient from its obligations under this Agreement.

Termination. The Recipient may terminate this Agreement at any time by giving a 30-day written notice to FEMA. FEMA may terminate this Agreement for cause if the Recipient fails to comply with the terms of this Agreement or with any rules, regulations, or provisions of HMGP or Federal assistance. Before terminating the Agreement, FEMA will use the process described in Section J, Program Deficiencies, above to attempt to resolve the problem.

Suspension. FEMA may suspend this Agreement, in part or in whole, if the Recipient fails to comply with the terms of this Agreement, or with any of the rules, regulations, or provisions of HMGP or Federal assistance. As this is a pilot program, FEMA reserves the right to suspend parts of this Agreement if it determines that an action performed by the Recipient is not permitted with the terms of this Agreement and the applicable law and HMA Guidance. This will not invalidate the rest of the Agreement.

Attachment A: The Work

[THE WORK ATTACHMENT CAN BE USED BY THE RECIPIENT AND FEMA TO DRAFT A PROGRAM MANAGEMENT PLAN FOR EACH DELEGATED ACTIVITY.]

Delegated Activities:

Application Review

Benefit-Cost Analysis

Grants Management

Fiscal Management

State Approval of Local Mitigation Plans

Attachment B: Performance Measures

[EXAMPLE CHART PROVIDED BELOW]

The chart would be completed as needed for delegated activities.

Measurable Item and Target	Met	Not Met	FEMA or Recipient Comments
Application Review			
All submitted applications have a completed Minimum Criteria Checklist (projects or planning subapplications).			
Fewer than 5% of reviewed applications had findings during monitoring visits.			

Attachment B.1 - Program Administration by States Pilot Operational Agreement Non-Disaster Delegation of Local Mitigation Plan Approval

A. Purpose

This is a FEMA-State operational agreement (Agreement) for the Program Administration by States Pilot under a non-disaster option pursuant to Section 404(c) of the Stafford Act (codified as amended at 42 U.S.C. § 5170c(c)). This Agreement is between the Federal Emergency Management Agency (FEMA) and the [STATE NAME] (State).

B. Background

1. Section 404 of the Stafford Act authorizes FEMA to provide financial assistance for state, tribal, and local governments and certain private non-profit organizations to implement cost-effective hazard mitigation measures following a major disaster. FEMA administratively carries out this authority under HMGP. One of the requirements for a local government to receive HMGP funding is that it must have a FEMA-approved local mitigation plan meeting the requirements of 44 CFR Part 201.
2. Section 404(c) of the Stafford Act provides that a state desiring to administer HMGP may submit to FEMA an application for a delegation of authority to administer HMGP under a major disaster declaration. The minimum requirements to request such a delegation are that the state must have a current approved state mitigation plan, demonstrated the ability to manage the program, and demonstrated a commitment to mitigation activities.
3. Although FEMA has not yet issued regulations to implement the authority under Section 404(c), it is currently carrying out this authority under a Pilot Program and issued the Addendum to the Hazard Mitigation Assistance Guidance Program Administration by States Pilot, Hazard Mitigation Grant Program, [DATE] (“Pilot Program Guidance”). The PAS Pilot Program Guidance provides that a state can request delegation of local mitigation plan approval even when the State does not have an HMGP award.

C. Delegated Activities

Under this agreement, the State will review and approve local mitigation plans pursuant to the roles, responsibilities, and other terms and conditions in this Agreement.

D. FEMA Authority

FEMA retains the authority for final approval of local mitigation plans and will send out final approval letters in accordance with the Local Mitigation Plan Review Guide (October 2011).

E. Applicability

This Agreement is effective upon the execution of the Agreement.

F. Roles and Responsibilities

1. The State shall:

- i. Incorporate this agreement and delegated functions into a management plan.
- ii. Complete a local mitigation plan review within 45 days of receipt from the local government whenever possible.
- iii. Determine if local mitigation plans meet the requirements of 44 CFR Part 201 and FEMA guidance.
- iv. Provide technical assistance, as required, to local governments on the preparation of local mitigation plans and any revisions needed that are identified during plan review.
- v. Monitor and evaluate progress of plan revisions.
- vi. If all elements are addressed except plan adoption, provide an approvable pending adoption determination to local communities requesting review.
- vii. Perform the review and approval of all local mitigation plans through the key personnel detailed in paragraph G.
- viii. Notify FEMA when the State has determined that a local mitigation plan meets the requirements of 44 CFR Part 201 and FEMA guidance and provide FEMA an electronic copy of the local mitigation plan and a copy of the completed Local Mitigation Plan Review Tool documenting their final determination.
- ix. Submit a monthly report to FEMA as described in paragraph H.
- x. Provide information requested by FEMA as part of FEMA's monitoring and evaluation of the State's performance under this Agreement as detailed in paragraph I.
- xi. Prepare and submit a corrective plan upon notice of deficiencies and resolve all deficiencies upon FEMA's acceptance of the corrective action plan as detailed in paragraph J.
- xii. **[ADD, IF APPLICABLE]** When tribes participate in multi-jurisdictional plans with local governments, coordinate with FEMA to facilitate review.

2. FEMA shall:

- i. FEMA must review and approve the State's management plan.

- ii. Send the formal approval letters for local mitigation plans in accordance with the Local Mitigation Plan Review Guide (October 2011).
- iii. Monitor and evaluate the performance of the State under this Agreement and conduct at least one monitoring review per calendar year.
- iv. Notify the State of program deficiencies, review corrective action plans submitted by the State, and require the State to submit additional periodic written verification that it is taking the corrective measures detailed in the plan.
- v. Provide training and technical guidance to the State concerning local mitigation plan reviews upon request.
- vi. Notify state of any program changes for mitigation planning.

G. Key Personnel and Level of Effort

The State shall assign the following staff as key personnel to perform their responsibilities under this Agreement:

Staff Member/Title	General Program Duties	Time Allocation
[FILL-IN]	[FILL-IN]	[FILL-IN]
[FILL-IN]	[FILL-IN]	[FILL-IN]

The State’s performance under this Agreement shall be under the direction of the positions identified above. The State shall devote the full-time equivalent level of effort, at a minimum, as specified above. Substitutions or substantial reductions in level of effort will only be for compelling reasons, and may affect the delegations provided by FEMA. The State shall notify FEMA of any pending changes and their plans to maintain the same level of effort.

H. State Monthly Reports

The State shall furnish FEMA with monthly report to FEMA that describes the status of plan reviews, technical assistance activities provided to local governments, and training scheduled for local governments.

I. Monitoring

1. **Monitoring** FEMA will review ten percent (10%) of plans approved by the State. For every ten plans submitted, FEMA will randomly select one plan for review. If fewer than ten plans are submitted during a calendar year, FEMA will review at least one plan annually.
2. **Monitoring Reviews** FEMA will conduct at least one monitoring review per year and may conduct additional reviews as necessary. The State will provide any and all documents requested by FEMA as part of its monitoring activities. FEMA will provide the State with a 48-hour notice of any on-

site review. FEMA will, if necessary, prepare a report that explains and documents findings of its monitoring review, including any deficiencies.

J. Program Deficiencies

1. **Corrective Actions** FEMA may find that the State has deficiencies in carrying out its responsibilities under this Agreement through monitoring activities, desk reviews, or other means. If FEMA finds deficiencies, it may require the State to take corrective action and to submit a written corrective action plan to address those deficiencies. The State must complete any corrective action within 30 days of FEMA's acceptance of the corrective action plan, unless otherwise agreed to by FEMA.
2. **Additional Written Verifications** FEMA may require the State to submit additional periodic written verification that measures have been taken to implement any corrective action. If the State fails to demonstrate its compliance with the approved corrective action plan within the agreed upon time constraints, FEMA may terminate this Agreement and/or exercise any other rights and remedies available to it.

K. Special Conditions

[THIS SECTION OF THE AGREEMENT CAN BE USED BY THE STATE AND FEMA TO INCLUDE SPECIAL CONSIDERATIONS.]

L. Duration, Termination, and Suspension

1. **Duration** This Agreement will expire on [INSERT DATE FOR FIVE YEAR DURATION] or sooner when a FEMA-State agreement is signed for a Presidential disaster declaration. In the event of a Presidential Disaster Declaration, the State can submit a request to FEMA to transition or amend this agreement as described in paragraph M.1 as an addendum to the FEMA-State agreement for that disaster. State performance must be in good standing to transition or amend agreements.
2. **Termination for Convenience** The State may terminate this Agreement before the date in paragraph L.1 by giving a 30-day written notice to FEMA.
3. **Termination for Cause** FEMA may terminate this Agreement for cause if the State materially fails to comply with the terms of this Agreement or with any of the regulations or program guidance. Before terminating the Agreement, FEMA will attempt to use the process described in paragraph J to attempt to resolve the problem.
4. **Suspension** FEMA may temporarily suspend this Agreement, in part or in whole, if the State materially fails to comply with the terms of this Agreement, or with any of the applicable regulations or program guidance. As this is a pilot program, FEMA reserves the right to suspend parts of this Agreement if it is determined that an action performed by the State is not permitted with the terms of this Agreement and the applicable law and Mitigation Planning and HMA Guidance. This will not invalidate the rest of the Agreement.

M. Other Provisions

1. **Amendments** This Agreement may be amended upon the mutual written consent of the parties. Both signatories must sign amendments to the Agreement.
2. Nothing in this Agreement is intended to conflict with current law or regulations or the directives of FEMA or Recipient. If a term of this Agreement is inconsistent with any such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.
3. The State shall comply with the Agreement, Pilot Program Guidance, and all applicable laws, regulations, executive orders, Office of Management Budget circulars, and FEMA policies when carrying out this Agreement, unless this Agreement specifies a deviation from a specific requirement.
4. The State will maintain mitigation planning records for the duration of this agreement.
5. Nothing in this Agreement limits FEMA's authorities under the Stafford Act and its implementing regulations.

Attachment C – Project Summary Sheet

Project summary sheets submitted to FEMA should contain the components listed below.

1. Major disaster declaration number from which mitigation funds will be obligated by FEMA
2. Project number (FEMA will provide to Recipient)
3. Subapplicant name(s) (i.e., community and point of contact information, National Flood Insurance Program status)
4. U.S. Congressional District (Senators and Representatives)
5. Federal Information Processing Standard (FIPS) code (FEMA will provide to Recipient)
6. Dun & Bradstreet (DUNS) Number
7. Local or tribal mitigation plan information
8. Brief description of the project
9. Project location with global positioning system (GPS) coordinates and flood zone
10. Flood insurance policy information, if applicable
11. Total project cost
12. Amount requested (Federal share)
13. Non-Federal cost share amount and source (e.g., local, global credit pool)
14. Cost-effectiveness determination
15. Proposed performance period (completion date)
16. List of alternatives considered (e.g., acquisition, elevation, drainage upgrade)
17. Reviews/Results
 - Certify that the Recipient has reviewed and determined this project is eligible
 - Attach all documentation needed for the project environmental review and all coordinating agency consultation letters and memorandums
 - Attach benefit-cost summary sheet
 - Attach project site map, including FEMA flood map data
 - Attach Assurances
 - Attach Minimum Criteria Checklist (if required by Region)