

Arizona Supreme Court
Administrative Office of the Courts

FUNDING AGREEMENT

For
Juvenile Crime Reduction Fund
Fiscal Year 2018 - 2019

This Agreement is entered into by and between the Administrative Office of the Courts, on behalf of the **Arizona Supreme Court, Administrative Office of the Courts, (“AOC”)**, and the **Cochise County Juvenile Court** referred to as “**Grantee**”, to fund the **GED Testing Center** program pursuant to the provisions of A.R.S. §41-2401(D)(5) and Supreme Court Administrative Order No. 97-58, which is incorporated herein by reference.

1. TERM OF AGREEMENT

This Agreement becomes effective on **July 1, 2018** and shall remain in effect through **June 30, 2019**.

2. MODIFICATION AND TERMINATION

This Agreement may be modified or terminated by the AOC if in its judgment such action is necessary due to: (a) funding availability; (b) statutory changes in the program; (c) Grantee’s failure to implement or operate the approved proposal and plan as indicated in the application, Addendum A; and the attached award letter incorporated herein as Addendum B; (d) Grantee’s non-compliance with this Agreement or other program requirements, or, (e) other circumstances necessitating such action. Either party may, upon thirty (30) days written notice to the other party by certified mail, terminate this agreement. Should action be caused by default of either party, a written thirty (30) day notice of default will be issued by certified mail describing the deficiency to the other party hereby named at the end of this agreement. If the other party does not correct the deficiency within thirty (30) days after receiving notice of default, the issuing party may terminate the Agreement.

3. FUND ACCOUNTING

Funds distributed to Grantee shall be deposited in a Special Revenue Fund established for the execution of this Agreement. Any interest earned on these monies while in the possession of Grantee shall accrue to the fund for use by Grantee in the approved proposal and plan as indicated in the application, Addendum A and Addendum B. Funds disbursed to Grantee for reimbursement of approved expenses do not have to be deposited into a Special Revenue account.

4. EXPENDITURES

a. Distribution of Funds. The AOC may retain all or any portion of the funds allocated to Grantee for the performance of its approved proposal and plan as indicated in the application, Addendum A, and Addendum B and may authorize direct expenditures for the benefit of Grantee. Set forth in Addendum A to this Agreement are the specific amounts to be retained by the AOC and to be disbursed to the Grantee. The AOC may periodically modify the distribution of funds contained in Addendum A based on its determination of Grantee's need for and usage of the funds.

b. Reporting Requirements. Unless otherwise directed, grantee shall submit the following reports to the AOC:

- 1. Financial Mid-Year Progress Report – Due January 31, 2019.*
- 2. Program Mid-Year Progress Report – Due January 31, 2019.*
- 3. Financial Closing report – Due August 15, 2019.*
- 4. Program Closing report – Due August 15, 2019.*

c. Unexpended Funds. Funds unencumbered as of June 30, 2019 and unexpended as of July 31, 2019 plus all unexpended interest accrued on such funds while in the possession of Grantee, shall be transmitted to the AOC for reversion no later than August 15, 2019. The reversion shall be accompanied by the Financial Closing report due on August 15, 2019 (as described in section 4b above) and shall be signed by the Presiding Judge or appropriate Division/Department Head if this agreement is between the AOC and an organization other than an Arizona court.

d. Inappropriate Expenditures. Grantee shall expend funds only for the purposes and uses specified in the approved proposal and plan as indicated in the application, Addendum A, and Addendum B. Grantee agrees to reimburse the AOC for any unauthorized or inappropriate expenditures which are not in compliance with the approved proposal and plan as indicated in the application, Addendum A, Addendum B, and this Agreement. Funds shall not be used to pay Grantee's administrative costs for services associated with receipt of those funds including, but not limited to, indirect costs, such as: accounting, payroll, data processing, purchasing, existing building use, outside program evaluation, report preparation or out-of-state travel for staff. All equipment purchased solely with AOC funds shall be used solely for purchases in the approved proposal and plan as indicated in the application, Addendum A, and Addendum B unless written permission is received from the AOC. Juvenile Crime Reduction funds shall not be used to reduce the financial obligation of a federal, state, county, city, school district, or tribal government agency to fund the operations of the juvenile court or other juvenile related programs.

e. Budget Modifications. Grantee shall not move funds from, to, or within budgeted categories described in Addendum A without prior written authorization from the AOC. All budget modifications shall be in accordance with the Administrative Office of the Courts Policies and Procedures Manual, section 5.03, entitled Budget Control, Budget Modification Policy and must be received by the Administrative Office of the Courts in the form of written request at least 30 days before the end of the program end date.

f. Termination of Funding. In the event that this Agreement is terminated prior to June 30, 2019, all unexpended funds in the possession of Grantee shall be returned to the AOC within 30 days of such termination, along with, but not limited to: (1) a closing financial report; (2) a final program report outlining the program achievements; and (3) an inventory, including serial numbers, of all equipment purchased with grant funds. If termination is due to failure of Grantee to comply with the approved proposal and plan as indicated in the application, and Addendum A and Addendum B, the AOC may require return of equipment and supplies purchased with grant funds.

5. SUBCONTRACTS

Grantee may utilize funds for subcontracts with public or private agencies or organizations for the purpose of reducing juvenile crime if such contracts have been provided for in the applicant's approved proposal and plan as indicated in the application, Addendum A, and Addendum B, with such agencies and organizations specifically identified, and the subcontract incorporates these requirements. Grantee shall require that subcontractors providing services directly to juveniles shall perform routine past employment verifications on all employees. Subcontract shall state that subcontractors will directly reimburse the AOC for any unauthorized or inappropriate expenditures which are not in compliance with the approved proposal and plan as indicated in the application, Addendum A, Addendum B, and this agreement.

6. BOOKS AND RECORDS

a. Financial Records and Examination. Grantee shall maintain and shall require its subcontractors to maintain acceptable accounting systems, records, and documents to properly reflect all funds expended in the performance of the approved proposal and plan as indicated in the application, Addendum A, Addendum B. All books, records and other documents relevant to this Agreement shall be retained by Grantee and its subcontractors for a period of five (5) years after the final payment has been made, or until after the resolution of any audit questions or contract disputes, whichever is longer. AOC, state, or federal auditors, as applicable, and any other persons duly authorized by the AOC shall have full access to, and the right to examine, audit, copy and make use of any and all said materials. All subcontracts shall include a provision acknowledging the authority of the AOC to conduct such audits or examinations.

b. Program Records and Evaluation. The AOC may monitor and evaluate the local project to determine its effectiveness. As a condition of receipt of grant funds, Grantee and subcontractor agrees to maintain and provide to the AOC such data and statistics as may be required by the AOC for purposes of evaluation. Grantee and subcontractor further agree that authorized agents of the AOC shall have the right to conduct on-site visits for purposes of compliance monitoring and program evaluation. All subcontracts shall include a provision acknowledging the authority of the AOC to conduct such inspections and evaluations.

7. INVENTORY

Equipment purchased with funds received pursuant to this Agreement shall become the property of Grantee, and Grantee shall maintain written inventory and property control policies and procedures covering the equipment. Grantee may use its existing inventory system, but must at a minimum maintain the information required by AOC policies and procedures.

8. USE, LOSS AND DISPOSITION OF EQUIPMENT

Equipment must be used as required by the approved proposal and plan as indicated in the application, Addendum A, and Addendum B for five years unless written permission is given by the AOC. After this time, the equipment may be transferred upon approval of the presiding judge. Grantee is responsible for any maintenance, loss or damage to the equipment, and the AOC makes no assurances regarding its repair or replacement. Equipment which is no longer needed or usable shall be surplus as required by this agreement. If no such requirements are included in the Agreement, then local surplus property procedures may be utilized.

9. ASSIGNMENT OF INTELLECTUAL PROPERTY RIGHTS

Any reports or information developed during the course of this project will be the joint property of the Grantee and the AOC. The Grantee and the AOC shall have full and complete rights to reproduce, duplicate, disclose, perform and otherwise use all information prepared under this Agreement.

10. PERFORMANCE LIABILITY

Except as otherwise provided in law, in the performance of the approved proposal and plan as indicated in the application, Addendum A, Addendum B, and this Agreement both parties hereto will be acting in their individual governmental capacities and not as agents, employees, partners, joint venturers, or associates of each other. The employees, agents, or subcontractors of one party shall not be deemed or construed to be the employees or agents of the other party. Each party agrees to be solely responsible for the actions of its employees under this Agreement.

11. DISPUTES

a. General Procedure. If any dispute arising under the Agreement is not disposed of by agreement between the parties then the contract administrator identified in the notice section of this Agreement shall decide the dispute in writing and send a copy of the decision to Grantee. The Grantee administrator's decision may be appealed according to Supreme Court Administrative Policy 7.04 (C) and (D). Pending the final decision of a dispute hereunder, Grantee shall proceed diligently with the performance of the Agreement in accordance with the Grantee administrator's decision.

b. Arbitration. The parties agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes.

12. CONFLICT OF INTEREST

The AOC may cancel this Agreement without penalty or further obligation to the State pursuant to A.R.S. § 38-511, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the AOC is or becomes at any time, while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party to this Agreement with respect to the subject matter of this Agreement. Cancellation shall be effective when written notice from the AOC is received by all parties to this Agreement, unless the notice specifies a later time.

13. COMPLIANCE WITH NON-DISCRIMINATION LAWS

The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action. Grantee shall include a clause to this effect in all subcontracts related to this Agreement.

14. INDEMNIFICATION CLAUSE

To the fullest extent permitted by law, Grantee shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Grantee to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Grantee from and against any and all claims. It is agreed that Grantee will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, the Grantee agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Grantee for the State of Arizona.

This indemnity shall not apply if the grantee or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

15. INSURANCE REQUIREMENTS

Grantee and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Grantee, its agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The AOC or the State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Grantee from liabilities that arise out of the performance of the work under this Agreement by the Grantee, its agents, representatives, employees or subcontractors, and the Grantee is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE

Grantee shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability (CGL) – Occurrence Form**

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

• General Aggregate	\$1,000,000
• Products – Completed Operations Aggregate	\$ 500,000
• Personal and Advertising Injury	\$ 500,000
• Damage to Rented Premises	\$ 25,000
• Each Occurrence	\$ 500,000

a. The policy shall be endorsed, as required by this written agreement, to include the Arizona Supreme Court, the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Grantee.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the Arizona Supreme Court, the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Grantee.

2. **Business Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Agreement.

• Combined Single Limit (CSL)	\$ 500,000
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- a. Policy shall be endorsed, as required by this written agreement, to include the Arizona Supreme Court, the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Grantee involving automobiles owned, hired and/or non-owned by the Grantee.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the Arizona Supreme Court, the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Grantee.

3. Workers' Compensation and Employers' Liability

• Workers' Compensation	Statutory
• Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$ 500,000

- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the Arizona Supreme Court, the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Grantee.
- b. This requirement shall not apply to each Grantee or subcontractor that is exempt under A.R.S. § 23-901, and when such Grantee or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

4. Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

- a. In the event that the Professional Liability insurance required by this Agreement is written on a claims-made basis, Grantee warrants that any retroactive date under the policy shall precede the effective date of this Agreement and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Agreement is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this agreement.

B. ADDITIONAL INSURANCE REQUIREMENTS

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

1. The Grantee's policies, as applicable, shall stipulate that the insurance afforded the Grantee shall be primary and that any insurance carried by the AOC, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
2. Insurance provided by the Grantee shall not limit the Grantee's liability assumed under the indemnification provisions of this Agreement.

C. NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Agreement, Grantee's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the AOC. Within two (2) business days of receipt, Grantee must provide notice to the AOC if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be hand delivered or directly mailed to the AOC (*please refer to paragraph #19 - NOTICES*).

D. ACCEPTABILITY OF INSURERS: Grantee's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The AOC or the State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Grantee from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Grantee shall furnish the AOC with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Agreement. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the AOC before work commences. The AOC's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement shall be sent directly to the AOC. The AOC's project/contract number and project description shall be noted on the certificate of insurance.

The AOC reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

F. SUBCONTRACTORS: Grantee's certificate(s) shall include all subcontractors as insureds under its policies or Grantee shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The AOC reserves the right to require, at any time throughout the life of this agreement, proof from the Grantee that its subcontractors have the required coverage.

G. APPROVAL AND MODIFICATIONS: The AOC, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this agreement, as deemed necessary. Such action will not require a formal Agreement amendment but may be made by administrative action.

H. EXCEPTIONS: In the event the Grantee or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Grantee or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

16. AVAILABILITY OF FUNDS

Payments made by the parties pursuant to this Agreement are conditioned upon the availability of appropriated funds authorized for expenditure in the manner and for the purposes herein. Notwithstanding any other provision of this Agreement, in the event that either party is unable to obtain funds required by this Agreement, the Agreement shall be terminated upon written notice that funds are not available.

The parties shall not be liable for any purchases and/or contracts entered into by the other party in anticipation of such funding.

17. INVALIDITY OF PART OF THE AGREEMENT

Should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.

18. GOVERNING LAW

This Agreement shall be construed under the laws of the State of Arizona and incorporates by reference all laws governing interagency agreements and mandatory provisions for state Agreements.

19. NOTICES

Any and all notices, requests or demands given or made upon the parties hereto, pursuant to or in connection with this Agreement, unless otherwise noted, shall be delivered in person, sent by United States Mail, postage prepaid, or electronic mail, to the Grantee at their address as indicated in the approved proposal and plan application and the Addendum B and to the AOC at 1501 West Washington, Suite 337, Phoenix, Arizona 85007, Attn: JCRF Administrator.

(GRANTEE)

ARIZONA SUPREME COURT

By: _____

By: _____

**Joseph Kelroy, Division Director
Juvenile Justice Services Division
Arizona Supreme Court
Administrative Office of the Courts**