

Arizona Supreme Court  
Administrative Office of the Courts

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**FUNDING AGREEMENT FOR FILL THE GAP FUND**

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Cochise County Superior Court  
2002FTG001

Fiscal Year 2020

This Agreement is entered into by and between the Arizona Administrative Office of the Courts, herein referred to as "AOC," on behalf of the Arizona Supreme Court, and the Cochise County Superior Court, herein referred to as "the Court," in accordance with A.R.S. §§ 12-102.01, 12-102.02 and 41-2421.

**RECITAL**

The purpose of this Agreement is to provide funding to the Court to implement its approved plan for use of Fill the Gap (FTG) for Fiscal Year 2019, as set forth in Addenda A and B which are part of this Agreement. In the implementation of its approved plan and use of Fill the Gap Fund monies, the Court agrees that it will not reassign existing full-time permanent judges to hear civil and other non-Fill the Gap Fund cases.

**TERMS AND CONDITIONS**

**1. TERM OF AGREEMENT**

This Agreement becomes effective on July 1, 2019, and shall remain in effect through June 30, 2020.

**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) the Court's failure to implement or operate the approved plan; (d) the Court's noncompliance with this Agreement, A.R.S. §§ 12-102.01, 12-102.02 and 41-2421 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. In the event that a modification request becomes necessary, it must be requested no later than thirty (30) days prior to the closing date of the grant.

**3. FUND ACCOUNTING**

Funds distributed to the Court shall be deposited in a Special Revenue Fund established for the execution of this Agreement pursuant to Section III (B) of the Auditor General's Uniform Accounting Manual for Arizona Counties. Any interest earned on these monies while in the possession of the Court shall accrue to the fund for use by the Court in accordance with its approved plan.

**4. EXPENDITURES**

**a. Distribution of Funds.** The AOC may retain all or any portion of the funds allocated to the Court for the performance of its approved plan and may authorize direct expenditures for the benefit of the Court. Set forth in Addendum A to this Agreement are the specific amounts to be retained by the AOC for Superior Court judges pro tempore salaries and ERE to be disbursed by the AOC, and amounts to be disbursed to the Court. The AOC may periodically modify the distribution of funds contained in Addendum A based on its determination of the Court's need for and usage of Fill the Gap Funds.

**b. Reporting Requirements.** The Court shall submit a progress report to the AOC no later than August 15, 2020 for the period of July 1, 2019 to June 30, 2020, and include a financial report along with any funds and interest in accordance with paragraph 4.C of this funding agreement.

c. **Unexpended Funds.** Funds unencumbered as of June 30, 2020, and unexpended as of July 30, 2020, plus all unexpended interest accrued on such funds while in the possession of the Court, may be carried forward to the next fiscal year. Any funds carried forward to the following year must be used for similar line items that were identified in the approved application.

d. **Inappropriate Expenditures.** The Court shall expend funds only for the purposes and uses specified in the approved plan and budget. The Court agrees to reimburse the Fill the Gap Fund for any unauthorized or inappropriate expenditures which are not in compliance with the approved plan and budget and this Agreement and A.R.S. §§ 12-102.01, 12-102.02 and 41-2421.

Fill the Gap Funds shall not be used to pay county or city administrative costs for services associated with receipt of those funds including, but not limited to, the cost of: accounting, payroll, data processing, purchasing, personnel, and building use. All equipment purchased solely with Fill the Gap Funds shall be used solely for purposes in the approved plan unless written permission is received from the AOC.

e. **Budget Modifications.** The Court shall not shift funds from, to, or within budgeted categories without prior written authorization from the AOC. All budget modifications shall be in accordance with the current version of Section 5.03, AOC's Policies and Procedures Manual, entitled Budget Control, Budget Modification Policy, a copy of which can be obtained upon request.

f. **Termination of Funding.** In the event that this Agreement is terminated prior to June 30, 2020, all unexpended funds in the possession of the Court shall be returned to the AOC within 30 days of such termination, along with, but not limited to: (1) a closing financial statement; (2) a final report outlining the program achievements; and (3) an inventory, including serial numbers, of all equipment purchased with Fill the Gap Funds.

If termination is due to failure of the Court to comply with the approved plan, the AOC may require return of equipment and supplies purchased with Fill the Gap Funds.

## **5. BOOKS AND RECORDS**

a. **Financial Records and Examination.** The Court 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 plan. All books, records and other documents relevant to this Agreement shall be retained by the Court 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. Court, 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 plans to monitor and evaluate the Fill the Gap Fund Program to determine its effectiveness. As a condition of receipt of Fill the Gap Funds, the Court agrees to maintain and provide to the AOC such data and statistics as may be required by the AOC for purposes of evaluation. All records and documents relevant to this Agreement shall be retained by the Court and its subcontractors for a period of five (5) years after the final payment has been made. Authorized agents of the AOC shall have full access to, and the right to examine, copy, and make use of, any and all said materials.

The Court further agrees 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.

## **6. AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENTS**

The Court shall comply with the Arizona Judiciary Policy on Access to Court Services by Persons with Disabilities as mandated by Administrative Order 92-32.

**7. INVENTORY**

The Court retains ownership of equipment purchased with funds received pursuant to this agreement, and shall maintain written inventory and property control policies and procedures. The Court may use its existing inventory system but must at a minimum maintain the information required by Supreme Court policies and procedures. See AOC's Policies and Procedures Manual, Section 5.06 for guidance.

The Court retains ownership of equipment purchased with funds received pursuant to this funding agreement.

**8. USE, LOSS AND DISPOSITION OF EQUIPMENT**

Equipment must be used as required by the approved plan for duration of this funding agreement, unless written permission is given by the Supreme Court. After this time, the equipment may be transferred upon approval of the presiding judge. The Court is responsible for any maintenance, loss or damage to the equipment and the Supreme Court makes no assurances regarding its repair or replacement. Equipment, which is no longer needed or usable, shall be placed in surplus as required by this agreement. If no such requirements are included in the funding agreement, then local surplus property procedures may be utilized. The equipment should be offered to another court prior to being placed in surplus. See Attachment C.

**9. PERFORMANCE LIABILITY**

Except as otherwise provided in law, in the performance of this Agreement and the Court's approved plan 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, and to indemnify and hold the other harmless for the actions of its own employees.

**10. VACATION COMPENSATION**

Where Fill the Gap Funds are allocated for the compensation of full-time employees, the Court, at its option, may provide for the accrual and use of vacation time by such employees consistent with existing the Court policy. Full-time employees are defined as those who work a minimum of 40 hours per week for at least six consecutive months during the term of this Agreement. Further, under no circumstances shall the Court use Fill the Gap Fund monies for the compensation of judges pro tempore or other temporary quasi-judicial officers substituting for either vacationing permanent or pro tempore judges or quasi-judicial officers.

**Cochise County Superior Court**

By James L. Conlogue  
Honorable James L. Conlogue, Presiding Judge  
Superior Court in Cochise County

By Arny J. Hunley  
Honorable Arny Hunley, Clerk of the Court  
Superior Court in Cochise County

**ARIZONA SUPREME COURT**

By Mike Baumstark  
Mike Baumstark, Deputy Director  
Administrative Office of the Courts

**ADDENDUM A**

**TO APPROVED RECOMMENDATION AND FUNDING AGREEMENT FOR  
FILL THE GAP**

**GRANTEE: Cochise County Superior Court**

**ADDENDUM DATE: October 23, 2019**

**BEGIN DATE: July 1, 2019**

**END DATE: June 30, 2020**

**NOTE: This addendum supersedes all previously dated addenda.**

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**FUND SUMMARY:**

Superior Court	Personnel & ERE	\$278,914.00
	Travel	
	Professional Services	
	Operating Expenses	
	Equipment	

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**TOTAL FUNDS:** **\$278,914.00**

**AMOUNT FROM OTHER FUNDING:**

**AMOUNT FROM 5% SET-ASIDE:** **\$245,167.00**

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**TOTAL:** **\$245,167.00**

**AMOUNT TO BE DISBURSED TO COURTS ON OR ABOUT\*:**

Upon receipt of funding agreement **\$16,873.50**

On or about January 20, 2020 **\$16,873.50**

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**TOTAL AMOUNT APPROVED FOR DISBURSEMENT:** **\$33,747.00**

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**TOTAL AMOUNT APPROVED FOR EXPENDITURE:** **\$278,914.00**

\* Since the AOC cannot guarantee how much revenue will be generated from the 7% surcharge and the 5% appellate set-aside for FY20, any shortfall will be the financial responsibility of Cochise County. In the event that Fill the Gap funds retained by the AOC are insufficient to fund the approved request, or funds are reduced by legislative action, there is no obligation or approval to provide funds from other sources on the part of the AOC.

Signed:

  
\_\_\_\_\_  
Marcus Reinkenmeyer, Director, Court Services Division,  
Administrative Office of the Courts

Date:

10/24/19

Signed:

  
\_\_\_\_\_  
Honorable James L. Conlogue, Presiding Judge  
Superior Court in Cochise County

Date:

12/12/19

Signed:

  
\_\_\_\_\_  
Honorable Amy Hunley, Clerk of the Court  
Superior Court in Cochise County

Date:

12/13/2019

**ADDENDUM B**

**TO APPROVED RECOMMENDATION AND FUNDING AGREEMENT FOR  
FILL THE GAP**

**GRANTEE: Cochise County Superior Court**

**ADDENDUM DATE: October 23, 2019**

**BEGIN DATE: July 1, 2019**

**END DATE: June 30, 2020**

**NOTE: This addendum supersedes all previously dated addenda.**

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**PERSONNEL COSTS:**

<u>Positions</u>	<u>Length of Appointment</u>	<u>Total Request</u>
<b>Superior Court</b>		
Judge (1.0 FTE)	1 year	\$131,094.00
Judicial Assistant (1.0FTE at 65%)	1 year	\$35,513.00
Court Reporter (1.0 FTE at 42%)	1 year	\$29,603.00
Pre-Sentence Investigator (1.0 FTE at 60%)	1 year	\$41,795.00
Deputy Clerk (1.0 FTE at 30%)	1year	\$11,285.00
<b>Justice Court</b>		
Justice of the Peace Pro Tem (540)	1 year	\$29,824.00
<b>TOTAL FUNDS:</b>		<b>\$278,914.00</b>

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**PROFESSIONAL SERVICES**

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**Subtotal Professional Services Expenses: \$0.00**

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**OPERATING EXPENSES:**

**Travel \$0.00**

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**Subtotal Operating Expenses \$0.00**

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**EQUIPMENT EXPENSES:**

**ACAP Support & Maintenance Fees \$0.00**

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**Subtotal Equipment Expenses \$0.00**

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**TOTAL FY20 BUDGET: \$278,914.00**

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**ATTACHMENT C**  
**ARIZONA COURTS**  
**INVENTORY AND PROPERTY CONTROL POLICY**

The purpose of this section is to set forth minimum procedures and guidelines for fixed assets (furniture and equipment) owned by the Judicial Department Unit (JDU) other than the Supreme Court.

It is the intent of this policy that all equipment items are accounted for under an inventory system. Each court, including its probation departments, must be able to account for all equipment regardless of the funding source used to purchase the equipment.

**DEFINITIONS**

**Capital equipment** means any piece of property or a fixed asset with a purchase price of \$5,000 or more and a usable life of one or more years.

**Noncapital equipment** means any piece of property or a fixed asset with a purchase price of \$2,000 to \$4,999 and usable life of one or more years.

**Judicial Department Unit (JDU)** is any operating unit, office, or court of the Arizona Judicial Department reporting to the Chief Justice; chief judges of the Court of Appeals; presiding judges of the superior court, justice courts, and municipal courts; clerks of court; staff attorneys; divisions of the Administrative Office of the Courts; court administrators; and probation departments, with responsibility for reporting, care, and custody of the fixed asset.

**Local Governmental Unit (LGU)** is any county, city or school district with responsibility for reporting, care, and custody of the fixed asset.

**POLICY**

**1. GENERAL**

This policy covers any equipment valued over \$2,000 purchased from state, federal, or other funds provided through the AOC. All acquisitions of equipment using Supreme Court funds will be documented in an agreement.

If the AOC provides the funding and the JDU purchases the equipment, a funding agreement will be signed that clearly delineates the JDU owns the equipment. The JDU will record transactions in its fixed asset tracking system. The inventory policy is part of the funding agreement.

If the AOC purchases the equipment and transfers ownership of the asset, the JDU will record transactions in its fixed asset tracking system. The inventory policy is part of the equipment grant agreement.

The JDU shall maintain written inventory and property control policies and procedures.

All equipment included under this policy shall be clearly identified and located for purposes of regular physical inventory.

The JDU shall maintain an inventory log as described in the record keeping section of this policy.

**2. TAGGING/NUMBERING SYSTEM**

For items that the Supreme Court purchases and maintains ownership of, the Supreme Court will issue tags and require tagging of the equipment. For all other items, the JDU shall maintain a tagging/numbering system.

### **3. RECORD KEEPING**

The inventory and property control person shall establish accurate records for all equipment under this policy. These records for capital and non-capital equipment shall, at a minimum, indicate:

- Acquisition date
- A brief description of the item
- Current location (code or suitable alternative)
- Program funding source
- Tag or asset number
- Model and serial number
- Account number
- Purchase document number (claim/voucher)
- Original cost including shipping, taxes, and installation

The inventory control records shall be maintained in such a fashion as to permit ready access and review.

### **4. INVENTORY SCHEDULE**

The JDU shall conduct a physical inventory of equipment annually. The report of the physical inventory shall be maintained and available for review and audit upon request by the AOC.

### **5. TRANSFER OF EQUIPMENT**

Equipment must be used for the approved purpose for five years, unless written permission is given by the AOC. After five years, the equipment may be transferred upon approval of the presiding judge of the court.

### **6. SURPLUS PROPERTY**

Equipment, which is no longer needed or usable, shall be placed in surplus in accordance with the following:

For equipment for which title was granted to the JDU, the JDU shall follow any procedures required by the original funding agreement. If no such requirements are included in the funding agreement, then local surplus property procedures may be utilized.

### **7. MODIFICATION TO THIS POLICY**

The Arizona Supreme Court, AOC, reserves the right to modify this policy as needed.