



State of New Mexico  
**DEPARTMENT OF HOMELAND SECURITY &  
 EMERGENCY MANAGEMENT**

P.O. Box 27111  
 Santa Fe, NM 87502

**SUB-RECIPIENT GRANT AGREEMENT  
 HAZARD MITIGATION ASSISTANCE GRANTS**

**Assistance Listing 97.039: Hazard Mitigation Grant Program**

<b>1. SUB-GRANT NO.</b>	<b>2. SUB-RECIPIENT NAME</b>		<b>3. PROJECT NAME</b>	
DR-4652-0006-NM	Incorporated County of Los Alamos		Jemez Mountain Fire Protection - Electrical Undergrounding	
<b>4. STATE DFA VENDOR NUMBER</b>	<b>5. EIN NUMBER</b>	<b>6. SAM UEI NUMBER</b>	<b>7. CAGE CODE</b>	
54457	85-6000679	NUDDNPTPSE45	3VPG1	
<b>8. SUB-RECIPIENT PHYSICAL ADDRESS</b>		<b>9. SUB-RECIPIENT REMIT ADDRESS</b>		
1000 Central AVE STE 300 Los Alamos, NM 87544		1000 Central AVE STE 300 Los Alamos, NM 87544		
<b>10. DHSEM CONTACT NAME:</b>	<b>11. CONTACT DESK PHONE:</b>		505-639-6597	
Yolanda Buckles				
	<b>CONTACT EMAIL ADDRESS:</b>		DHSEM.mitigation@dhsem.nm.gov cc: yolanda.buckles@dhsem.nm.gov	
<b>12a. PERFORMANCE PERIOD START DATE</b>	05/12/2026	<b>12b. PERFORMANCE PERIOD END DATE</b>	05/14/2028	
<b>13. TOTAL AWARD AMOUNT:</b>	\$3,475,516.45			
<b>13a. FEDERAL SHARE</b>	<b>13b. LOCAL SHARE</b>	<b>13c. STATE SHARE</b>		
\$2,632,746.18	\$842,770.27	\$0.00		
<b>14a. NAME OF PROJECT AWARD</b>		<b>14b. FEDERAL SHARE</b>	<b>14c. NON-FEDERAL SHARE</b>	
1	Other Architectural & Engineering Fees	\$41,994.00	\$13,998.00	
2	Demolition and Removal	\$272,128.49	\$90,709.50	
3	Construction	\$2,214,188.33	\$738,062.78	
4	Sub-recipient Management Costs (SRMC)	\$104,435.36	\$0	
<b>TOTAL AMOUNT OF PROJECT</b>		\$2,632,746.18	\$842,770.27	

**WHEREAS** The State of New Mexico will serve as the “pass-through entity” with respect to the State’s role in providing sub-awards and administering grant assistance provided to sub-recipients and may, subject to a Memorandum of Agreement, directly support project development and administration.

**WHEREAS** funding has been obligated from the Federal Emergency Management Agency pursuant to a request by the applicant, The Sub-Recipient, [Incorporated County of Los Alamos](#).

**NOW, THEREFORE**, it is mutually understood and agreed between the recipient NMDHSEM, and [Incorporated County of Los Alamos](#), hereinafter referred to as “sub-recipient,” as follows:

## **ARTICLE 1: REQUIREMENTS AND ASSURANCES**

- A.** The sub-recipient hereby agrees that the performance period for the grant identified on Page 1, Box 1. is consistent with the performance period identified on Page 1, Box 12a. and 12b. This Sub-recipient Grant Agreement, as amended, shall remain open for administrative purposes if necessary to achieve final payment and financial reconciliation.
- B.** The sub-recipient hereby agrees that the sub-recipient official signing this Sub-recipient Grant Agreement certifies that all financial expenditures, including all supporting documents submitted for reimbursement, have been incurred by the sub-recipient and are eligible and allowable expenditures consistent with the guidelines for this award. The sub-recipient agrees to follow reasonable professional standards in all financial management and bookkeeping procedures necessary to carry out this agreement.
- C.** The sub-recipient hereby agrees that no member, officer, or employee of the sub-recipient organization, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year after that, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with this Sub-recipient Grant Agreement; the sub-recipient shall incorporate in all such contracts a provision prohibiting such interest pursuant to the purposes of this Sub-recipient Grant Agreement.
- D.** The sub-recipient hereby agrees that it understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government, without the express written approval of the State of New Mexico or FEMA.
- E.** The sub-recipient hereby agrees that FEMA reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use, for federal government purposes: (1) the copyright in any work developed under this Sub-recipient Grant Agreement; and (2) any rights of copyright to which the sub-recipient purchases ownership with federal support. The sub-recipient agrees to consult with FEMA through NMDHSEM regarding allocating any patent rights that arise from or are purchased with this funding.
- F.** The sub-recipient hereby agrees that signatures of the sub-recipient officials on this Sub-recipient Grant Agreement attest to the sub-recipient’s understanding, acceptance, and compliance with Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug- free Workplace; Conflict of Interest, and Non-Supplanting certifications. Federal funds will not be used to supplant state or local funds. Federal funds will be used to supplement existing sub-recipient funding to augment

program activities and not replace those funds which have been appropriated in the budget for the same purpose.

- G. The sub-recipient hereby agrees that their accounting system allows for the separation of fund sources. Funding provided under this Sub-recipient Grant Agreement cannot be commingled with funds from other federal, state, or local agencies, and each project must be accounted for separately.
- H. The sub-recipient hereby agrees that it shall comply with applicable Federal Civil Rights Laws and Regulations: Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Age Discrimination Act of 1975, and Americans with Disabilities Act of 1991. The sub-recipient will take reasonable steps to ensure Limited English Proficient (LEP) persons have meaningful access to its programs and activities. Executive Order 13379 Individuals with Disabilities in Emergency Preparedness, requires the government to support safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism.
- I. The sub-recipient hereby certifies that for its employees, it has an Affirmative Action Plan/Equal Employment Opportunity Plan (EEOP) if not exempted by the Federal Government or New Mexico rule or statute. An EEOP is not required for sub-recipients of less than \$25,000 or fewer than 50 employees.
- J. The sub-recipient hereby certifies that its employees are eligible to work in the United States as verified by Form I-9, Immigration & Naturalization Service Employment Eligibility.
- K. The sub-recipient hereby agrees that it is the responsibility of the sub-recipient to fully understand and comply with the requirements of the following, where such requirements apply to the sub-recipient set forth in:
  - 1. 2 C.F.R. § 200: Code of Federal Regulations
  - 2. 44 C.F.R. parts 7, 9, 10, 13, 14, 17, 18, 25, 206, 220, 221, 44 C.F.R. Part 209, 2 C.F.R. Part 200 and any other applicable FEMA policy memoranda and guidance documents
  - 3. FEMA Hazard Mitigation Assistance Program and Policy Guide
  - 4. New Mexico State Procurement Code  
New Mexico Administrative Code Title 2 – Public Finance <https://www.srca.nm.gov/nmac-home/nmac-titles/title-2-public-finance/>

## ARTICLE 2: REIMBURSEMENT OF FUNDS

The NMDHSEM will apply the following procedures for making payments to sub-recipients:

- A. **Payment of Funds, General:** Once FEMA has obligated funds and NMDHSEM has budgeted and encumbered those funds, the Cabinet Secretary is authorized to advance funds, as permissible, and to consider requests for payments for progress and completion based on proper review and approvals, in accordance with the sub-grant agreement or amendment as described below. Review and audit of expending and accounting of federal awards and state funds will be conducted to ensure records, reports, and documentation for compliance and tracing of funds are accounted for; 2 C.F.R. §§ 200.302(b)(6), 200.305(a). The State Department of Finance and Administration (DFA) may require additional supporting data and documents prior to disbursement of funds.
- B. Reimbursement shall be based upon authorized and allowable expenditures consistent with the project narrative, grant guidelines, and timely submission of Financial and Performance Progress

Reports. Reimbursement of expenditures shall be requested quarterly or monthly if need be for expenditures within the performance period. A minimum of 25% (of the total project cost) in the non-federal match must be included on each request for reimbursement. All expenditures must be supported with source documentation (e.g., copies of proof of payment, invoices, receipts, timesheets with name/rate/hours and certified, breakdown of expenditures based on FEMA approved budget, warrants, a brief description of work done, required deliverables, etc.). Request for reimbursement will not be processed if quarterly financial or performance reports are delinquent. The final payment of 15% will not be made until DHSEM verifies that all activities are complete. All payments shall be made on an actual cost reimbursement basis.

- C. **Contracts:** All requests for proposals/bids, sole-source procurements, single vendor responses to a competitive bid, and contracts require DHSEM pre-approval prior to implementation. The relevant contract must accompany requests for reimbursement for contractual services.
- D. **Local Match:** Local matching funds must clearly support the source, the amount, and the timing of all matching contributions. When requesting reimbursement, the match percentage must be shown on each invoice. Copies of proof of payment, invoices, receipts, purchase orders, timesheets with name/wage/hours, cost allocation, general ledger, warrants, etc., must be submitted as a backup for the match.
- E. **Non-reimbursable Expenses:**
- Transfer of funds between any programs. Contracts, single vendor response to a competitive bid, sole source contracts, and any procurement documentation not pre-approved by DHSEM.
  - Training and related travel costs not pre-approved by DHSEM.
  - Supplanting (using federal funds to purchase items previously budgeted for with state or local funds).
  - Maintenance and/or wear and tear costs of general use vehicles and emergency response apparatus.
  - Equipment purchased for an exercise cannot be used for permanent installation and/or beyond the scope of an exercise.
  - Weapons and ammunition.
  - Entertainment and sporting events
  - Personal items such as laundry, personal hygiene items, magazines, in-room movies, personal travel, and personal phone calls.
  - Travel insurance, visa, and passport charges.
  - Lodging costs in excess of State per diem, as appropriate.
  - Lunch when travel is wholly within a single day.
  - Standalone working meals.
  - Bar charges, alcoholic beverages.
  - Finance, late fees, or interest charges.
  - Lobbying, political contributions, and legislative liaison activities.
  - Organized fundraising, including salaries of persons while engaged in these activities.
  - Expenditures not supported with appropriate documentation when submitted for reimbursement. Only properly documented expenditures will be processed for payment. Unsupported expenditures will be returned to the jurisdiction for resubmission.
- F. **Payment Conditions.** The sub-recipient must certify that in requesting and accepting a sub-grant payment, they have spent those funds on eligible expenditures; that the work performed was within the scope of work allowed for specific projects; and that all records pertinent to specific projects will be retained for at least the periods required under record retention regulation requirements from the

closeout of the last project. The period of record retention for grant and financial data is three years if state funds are paid.

**G. Delays and Denial of Payment.** Reasons for delays in FEMA processing of payment requests include, but are not limited to, the following:

- Vendor identification number is missing or incorrect;
- Disaster and project number is missing;
- Period of performance (POP) listed is incorrect;
- Service delivery dates do not agree with invoices or outside of contract period;
- Dollar amount on forms do not agree;
- Mathematical errors;
- Full address of sub-grantee is not included;
- Sub-recipient did not provide required back-up documentation; or

Reasons for NMDHSEM declining payment requests include, but are not limited to, the following:

- The POP has expired;
- The amount exceeds the remaining funding available for disbursement prior to the final financial and program compliance reviews (the hold or funding retention amount);
- Request for payment requires a state and/or budget amendment, and cannot be processed until the amendment request is received/approved;
- The reimbursement requested is for an activity outside of the approved scope of work;
- Forms are not signed by an authorized person, or are signed by only one signatory;
- Reimbursement of awarded funds have been suspended due to a non-compliance issue such as failure to submit quarterly reports; or
- Reimbursements of awarded funds have been suspended due to noncompliance activities.

**Sub-recipients can reduce the likelihood of delays in processing of payment requests by checking for accuracy prior to submission.**

### **ARTICLE 3: AUDITING AND REPORTING REQUIREMENTS**

**A. Quarterly Reports.** In accordance with 2 C.F.R. § 200.328, the Applicant shall submit quarterly reports to the NMDHSEM beginning with the first full quarter after the signature date on the Sub-recipient Grant Agreement. The NMDHSEM will provide sub-recipient a form for this report. Quarterly reports are due no later than the 15th of the month following the end of the quarter - January 15, April 15, July 15, and October 15.

In order that NMDHSEM may adequately evaluate the progress and status of each sub-grant, quarterly reports shall contain a description of the work accomplished to date, the methods and procedures used, the anticipated completion date, a summary of all project costs to date, and other such information as may be of assistance in its evaluation of the project.

Reports shall be sent to the Department of Homeland Security & Emergency Management, Recovery Unit, P.O. Box 27111, Santa Fe, NM 87502, or electronically to [DHSEM.mitigation@dhsem.nm.gov](mailto:DHSEM.mitigation@dhsem.nm.gov).

**B. Additional Reporting Requirements.** The sub-recipient must immediately report in writing to the NMDHSEM Mitigation Unit any alleged acts or allegations of fraud or misappropriation of funds for work authorized under this Sub-recipient Grant Agreement. This extends to reporting any legal action, lawsuit, bankruptcy, or other action that may jeopardize the successful completion of any authorized project. Additional reporting and financial reconciliation requirements may also be requested at

NMDHSEM and FEMA's request. Failure to comply with these requests may jeopardize funding and may be a breach of this Sub-recipient Grant Agreement.

- C. Enforcement.** The NMDHSEM may suspend drawdowns, impose other special conditions, or take other authorized action pursuant to 2 C.F.R. § 200.339 (Remedies for Noncompliance) if the sub-recipient does not submit accurate and timely reports. This may include, among other things, the administrative closeout of a grant and/or any projects under a grant when the sub-recipient is not responsive to reasonable efforts NMDHSEM makes to collect required reports needed to complete closeout. Administrative closeout is a unilateral mechanism by NMDHSEM to move forward with project or grant closeout using available grant information in lieu of final reports. This can require NMDHSEM to make cash or cost adjustments and ineligible cost determinations, which may result in identifying a debt owed to FEMA and/or NMDHSEM.
- D. Financial Procedures.** The sub-recipient agrees to maintain financial procedures and support documents and to establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting principles or as directed by the Governor's Authorized Representative, to account for the receipt and expenditure of funds under this Agreement. If applicable, RECIPIENT / SUBGRANTEE shall conduct audit(s) pursuant to the Single Audit Act of 1984, 31 U.S.C. § 7501 et. seq., 44 C.F.R. Part 14, 2 C.F.R. Part 200, OMB Circular A-133, "Audits of States, Local Governments, and Non-profit Organizations," and applicable New Mexico laws, rules and regulations. Further, sub-recipient must provide a hard copy of the Single Audit Report within sixty (60) days of the close of its fiscal year. Otherwise, pursuant to 44 C.F.R. § 13.43, NMDHSEM may withhold or suspend payments under any grant award.

The sub-recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the three-year period, the records shall be retained until the litigation or audit findings have been resolved.

- E. Authorizing Statute.** This award is made under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. §§ 5121-5207) (Stafford Act), in accordance with 44 C.F.R. § 206.44.
- All scopes of work and costs approved as a result of this Sub-recipient Grant Agreement, whether as estimates or final costs approved through subawards, PWs, or otherwise, will incorporate by reference the terms of this Sub-recipient Grant Agreement and must comply with applicable laws, regulations, policy, and guidance in accordance with this Sub-recipient Grant Agreement.

Pursuant to Executive Order 13858 Strengthening Buy-American Preferences for Infrastructure Projects, FEMA encourages recipients to use, to the greatest extent practicable and consistent with the law, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in Public Assistance and HMGP eligible public infrastructure repair and construction projects affecting surface transportation, ports, water resources including sewer and drinking water, and power. Such preference must be consistent with the law, including cost and contracting requirements at 2 C.F.R. Part 200.

- F. Additional Terms and Conditions.** The following additional sub-grant agreement documents are fully incorporated into this Sub-recipient Grant Agreement and thereby constitute additional terms and conditions of this agreement.
- The Stafford Act, its implementing regulations contained in Title 44 of the C.F.R., and FEMA policy and guidance.

- **Hazard Mitigation Assistance Guide (March 2023)**
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 C.F.R. Parts 200 and 3002.
- Attachment 1 United States Department of Homeland Security (USDHS) Standard Terms and Conditions (January 24, 2022) in effect on the date of the Declaration, which are incorporated by reference into this Sub-recipient Grant Agreement
- Attachment 2 Reimbursement Checklist
- Attachment 3 Glossary and Definitions
- Attachment 4 Acronyms

#### ARTICLE 4: SCOPE OF WORK

- A.** As authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), as amended (42 U.S.C. § 5121 et seq.), and Section 662 of the Post Katrina Emergency Reform Act of 2006, as amended (6 U.S.C. § 762), the [Incorporated County of Los Alamos. The Incorporated County of Los Alamos has been awarded funds to replace an overhead electrical line with an underground line along Camp May Road to reduce wildfire risks. The 4.3-mile project will install new infrastructure, including a fiber-optic communication line, and will adhere to State and County building codes. An Environmental Assessment found no significant impact, and the area will be revegetated post-construction. Compliance with all environmental conditions is required.](#) Funds shall be utilized as outlined in the approved budget as awarded by FEMA on **05/12/2026**. The Sub-recipient shall match the Federal Award Amount of **\$2,632,746.18**, with a local jurisdictional amount of **\$842,770.27**, for a total project cost of **\$3,475,516.45**. All work performed pursuant to this agreement must comply with the approved FEMA application. All work must be completed within the performance period, between **05/12/2026 - 05/14/2028**. The [Incorporated County of Los Alamos.](#) shall not sub-grant any part of this award to any other entity or organization. Within the first reporting quarter, all awards require confirmation that expenditures in the budget category toward this project will be made. If not, DHSEM may execute a de-obligation of Federal funds without recourse by the [Incorporated County of Los Alamos.](#)
- B.** Approved projects must commence within the first reporting quarter. If a project cannot commence and be operational within the first reporting quarter of the approved award date, the sub-Recipient must submit a written statement to DHSEM, signed by the sub-recipient signatory officials, justifying the delay in implementation, the expected starting date, and a formal request to extend the project start date past the first reporting quarter. At the sole discretion of DHSEM, the grant award is subject to cancellation, and funds may be de-obligated and reallocated to other projects.

#### ARTICLE 5: PUBLICATIONS

- A.** Publications created with funding under this grant shall prominently contain the following statement or a DHSEM pre-approved modification: **This Document was prepared under a sub-grant from the FEDERAL EMERGENCY MANAGEMENT AGENCY and the NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the Federal Emergency Management Agency and the New Mexico Department of Homeland Security and Emergency Management.**

## ARTICLE 6: PERFORMANCE PERIODS

The performance period for this sub-grant award is **05/12/2026 - 05/14/2028**. Further, all personnel-related grant activity must be completed between **05/12/2026 - 05/14/2028**. Funds may not be obligated outside of these time periods. An obligation occurs when funds are encumbered, as with a purchase order and/or commitment of salaries and benefits. **All obligated and encumbered funds must be liquidated within 45 days of the end of the performance period when the *Final Progress and Financial Reports* are due.**

## ARTICLE 7: RECOVERY OF FUNDS FOR DUPLICATION OF BENEFITS AND INELIGIBLE ACTIVITIES

- A. Ineligible Activities.** The FEMA and/or NMDHSEM may disallow costs and recover funds based on the results of the audit or review during or after the performance of the award to ensure compliance with the terms of the Sub-recipient Grant Agreement and award document. The FEMA and/or NMDHSEM is required to recover funds when the sub-recipient has ineligible underruns (for example, actual costs for a PA large project are less than the amount awarded based on initial estimates); knowingly or negligently withholds or misrepresents material information; fails to complete work and comply with the terms of this Sub-recipient Grant Agreement or the approved award; expends federal funds in error; or incurs costs that are unreasonable or otherwise disallowed. If, after exhaustion of appeal rights, FEMA and/or NMDHSEM determines a debt is owed, the State has 30 days to resolve the amount owed before the debt is referred to the FEMA Finance Center for collection. The State may do so by directly paying FEMA. The State may also deposit the amount owed directly into the applicable subaccount in the U.S. Health and Human Services (HHS)/Smartlink and notify FEMA when it has reimbursed that subaccount, after which FEMA will de-obligate that amount in the subaccount. Alternatively, the sub-recipient may request to substitute unallowable costs for other costs that are allowable (e.g., necessary, allocable, and reasonable under the same award and have not yet been reimbursed by FEMA).
- B. Duplication of Benefits.** In accordance with the provisions of 42 U.S.C. § 5155 (Section 312 of the Stafford Act), duplication of benefits is prohibited. The NMDHSEM must take all actions necessary and reasonable to ensure that all who receive federal assistance are aware of their responsibility to repay federal assistance that is duplicated by amounts available from insurance or any other source for the same purpose. The FEMA and/or NMDHSEM may at any time, pre-award or post-award, adjust the level of funding provided to account for financial assistance provided from any other source for the same purpose as the federal assistance or to account for benefits available for the same purpose from another source, irrespective of whether they are actually received. The sub-recipient shall notify NMDHSEM, as soon as practicable, of the existence of any insurance coverage for the costs identified in the application and of any entitlement to or recovery of funds from any other source for the project costs, including Small Business Administration funding, United States Department of Agriculture (USDA), and other Federal, State, and private funding. The amount of duplicate sources available shall reduce allowable costs. The sub-recipient shall be liable to NMDHSEM to the extent that the sub-recipient receives duplicate benefits from any other source for the same purposes for which the sub-recipient has received payment from the NMDHSEM.
- C. Cooperation.** The NMDHSEM agrees, on its behalf and on behalf of its political subdivisions and others that receive federal assistance, to cooperate with the Federal Government in seeking recovery of federal assistance against any party or parties whose intentional acts or omissions or whose negligence or other tortious conduct may have caused or contributed to the damage or hardship for which federal assistance was provided under this Sub-recipient Grant Agreement. If applicable, FEMA will treat recovered funds as duplicated benefits available to NMDHSEM/sub-recipient in accordance with Section 312 of the Stafford Act (codified as amended at 42 U.S.C. § 5155).
- D. NMDHSEM Responsibilities.** The NMDHSEM is responsible for recovering federal assistance expended in

error, misrepresentation, fraud, or for otherwise disallowed or unused costs.

- a. The NMDHSEM must notify FEMA of any potential debt resulting from federal funds expended in error, misrepresentation, or fraud or for costs otherwise disallowed or unused.
- b. The NMDHSEM must report all cases of suspected fraud to the USDHS Office of Inspector General, cooperate with any investigation conducted by the USDHS Office of Inspector General, and cooperate with FEMA regarding any and all lawsuits that may result from the NMDHSEM or FEMA's attempt to recover funds or disallow costs.

**E. Statute of Limitations.** The 3-year statute of limitations limiting FEMA's ability to initiate an administrative action to recover funds paid as provided for in Section 705(a) of the Stafford Act (codified as amended at 42 U.S.C. § 5205(a)) begins with:

- a. **Initiation of an Administrative Action to Recover Payment.** The initiation of an administrative action to recover payment includes FEMA's written notice to the NMDHSEM or a sub-recipient of a questioned or disallowed cost or improper payment (including a request for information concerning such cost or payment) and written notice to the NMDHSEM or a sub-recipient of a FEMA or 3<sup>rd</sup> party review or audit.

**F. Refunds, Rebates, and Credits.** The NMDHSEM must transfer to FEMA the appropriate share, based on the federal support percentage, of any refund, rebate, credit, or other amounts arising from the performance of this Sub-recipient Grant Agreement. The NMDHSEM must take necessary action to collect all monies due promptly or which may become due and, if applicable, to cooperate with the Federal Government in any claim or suit in connection with amounts due.

**G. Non-Compliant Sub-recipients.** As per 2 C.F.R. §§ 200.207, 200.303(d) and 200.338(A-F), NMDHSEM can selectively use any or all the following remedies and prompt actions for non-compliance with any term of an award to include audit finding(s):

- a. Increased monitoring of projects and required additional financial and performance reports.
- b. Disallow the advance payment process.
- c. Temporarily withhold payments pending correction of the deficiency.
- d. Disallow or deny the use of funds and matching credit for all or part of the cost of the activity or action not in compliance.
- e. Request FEMA to entirely or partially de-obligate funding for a project.
- f. Temporarily withhold payments pending correction of the deficiency by the sub-recipient.
- g. Withhold further awards for the grant program.
- h. Take other programmatic or legally available remedies.

## **ARTICLE 8: CONSTRUCTION REQUIREMENTS**

**A.** The NMDHSEM must ensure that all applicable federal, state, and local permits and approvals are obtained and all permit conditions are addressed before the start of any construction activity, including FEMA and NMDHSEM/sub-recipient compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other applicable environmental laws and executive orders. All construction should be in accordance with approved permits, project plans and specifications, applicable building codes, and program guidance.

## ARTICLE 9: NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)/ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION (EHP) COMPLIANCE

- A. The sub-recipient must provide information to FEMA on the legally required environmental planning and historic preservation (EHP) review and to ensure compliance with the applicable EHP laws and Executive Orders (EO). These EHP requirements include but are not limited to the National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, E 11988 Floodplain Management, EO 11990 Protection of Wetlands, and EO 12898 Environmental Justice. The sub-recipient must comply with all federal, state, local, tribal, and territorial EHP requirements and obtain applicable permits and clearances. [See FEMA Policy: Grant Program Directorate Environmental Planning and Historic Preservation, FEMA Policy #108-023-1, Revision 2 for more information.](#)
- B. Sub-recipients shall not undertake any activity from the project that would result in ground disturbance, facility modification, or related to the use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, modifications to buildings that are 50 years old or older, construction projects inside buildings less than 43 years old, and exercises. The sub-recipient must comply with all mitigation or treatment measures required for the project due to FEMA's EHP review. An EHP Screening Form does not need to be provided for exercises planned to take place at previously approved facilities, such as fire and police academies, search and rescue training facilities, and explosive testing centers. Any exercise that requires land, water, vegetation disturbance, or building of temporary structures must undergo an EHP review.
- C. Any change to an approved project description will require re-evaluation to comply with EHP requirements before proceeding. If ground-disturbing activities occur during project implementation, the sub-recipient must ensure monitoring of ground disturbance. If any potential archeological resources are discovered, the sub-recipient will immediately cease construction in that area and notify NMDHSEM, FEMA, and the New Mexico Historic Preservation Division. Initiation of these activities prior to completion of FEMA's EHP review will result in a non-compliance finding and may result in ineligibility of grant funding.

## ARTICLE 10: PROPERTY AND EQUIPMENT MANAGEMENT

- A. The sub-recipient will follow the property standards articulated in 2 C.F.R. § 200.310 through 2 CFR 200.316. The sub-recipient shall, when practical, prominently display the following on any equipment purchased with award funds: **PURCHASED WITH FUNDS PROVIDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY**. No equipment purchased with these grant funds may be assigned to other entities or organizations without the expressed approval in writing from DHSEM prior to the jurisdiction's encumbrance or expenditure for that equipment.
- B. The sub-recipient will follow the property standards articulated in 2 C.F.R. § 200.310 through 2 C.F.R. § 200.316. The sub-recipient shall maintain an effective property management system; safeguards to prevent loss, damage, or theft; maintenance procedures to keep equipment in good condition; and disposition procedures. A Property Inventory Report shall be submitted to NMDHSEM annually each January 30 with the Financial Progress Report during the performance period, and continued submission is required annually until final disposition of the equipment. The sub-recipient shall, when practical, prominently display the following on any equipment purchased with award funds: Purchased with funds provided by the **FEDERAL EMERGENCY MANAGEMENT AGENCY**. No equipment purchased with these grant funds may be assigned to other entities or organizations without the expressed approval in writing from NMDHSEM prior to the jurisdiction's encumbrance or expenditure for that equipment.
- C. Any disposition of property or equipment must be in accordance with 2 C.F.R. § 200.313(e) and pre-

approved by FEMA through NMDHSEM.

## **ARTICLE 11: SUB-RECIPIENT MONITORING POLICY**

- A.** In accordance with 2 C.F.R. § 200.328, NMDHSEM may periodically monitor a sub-recipient's projects to ensure that program goals, objectives, timelines, budgets, and other related program criteria are being met. The NMDHSEM reserves the right to periodically review and conduct an analysis of the sub-recipient's financial, programmatic, and administrative policies and procedures. This monitoring may include a review of accounting for receipts and expenditures, cash management, maintaining adequate financial records, means of allocating and tracking costs, contracting, procurement, records management, payroll, means of allocating staff costs, property, and equipment management system, the progress of project activities, etc. This may include unscheduled desk audits and field inspections. The sub-recipient shall accommodate all such requests within reason. If the sub-recipient encounters any unanticipated problem with the Scope of Work, allowed costs, procurement, permitting, or other difficulty, the sub-recipient must communicate that problem to NMDHSEM promptly. Work on affected projects must be suspended until the problem is resolved. Technical assistance is available from NMDHSEM staff.
- B.** The sub-recipient will immediately, no later than 24-hours upon notice, report to NMDHSEM allegations of wrong-doing on the part of any contractor, sub-contractor, agent or employee of the sub-recipient, or other interested party in reference to the work authorized under this Sub-recipient Grant Agreement. This extends to any legal action, lawsuit, bankruptcy, or other action that may jeopardize the successful completion of any authorized project.

## **ARTICLE 12: PROCUREMENT**

- A.** Procurement shall comply with all federal, state, and local procurement requirements including 2 C.F.R. § 200.320 and the [New Mexico Procurement Code](#) for expenditure of funds under this Agreement. The sub-recipient must conform to applicable state and federal law and the Procurement Standards Sections 2 C.F.R. § 200.317-327, and Appendix II to Part 200. Contractors that develop or draft specifications, requirements, Statements of Work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Local bidder's preference is not allowed for federally funded procurements. Procurement transactions shall be conducted to provide maximum open and free competition.
- B.** When procuring property and services under this agreement, the sub-recipient will follow 2 C.F.R. § 200.318 through 2 C.F.R. § 200.326 and Appendix II. The sub-recipient must use its own documented procurement procedures which reflect applicable state, local, tribal, and territorial laws, and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 C.F.R. § 200. As such, the sub-recipient must use one of the methods of procurement identified in 2 C.F.R. § 200.320.
- C.** Also, per 2 C.F.R. § 200.318(i), sub-recipients are required to maintain and retain records sufficient to detail the history of procurement covering at least the rationale for the procurement method, selection of contract type, contractor selection or rejection, and the basis for the contract price. States and territories are encouraged to maintain and retain this information as well and are reminded that in order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g). Examples of the types of documents that would cover this information include but are not limited to:
  - a.** Solicitation documentation, such as requests for quotes, invitations for bids, or requests for proposals;
  - b.** Responses to solicitations, such as quotes, bids, or proposals;
  - c.** Pre-solicitation independent cost estimates and post-solicitation cost/price analyses on file for review by federal personnel, if applicable;

- d. Contract documents and amendments, including required contract provisions; and
  - e. Other documents required by federal regulations applicable at the time a subgrant is awarded to a sub-recipient.
- D. Procurement from Minority Owned and Women Owned Business is encouraged and must be tracked and reported to NMDHSEM on the quarterly reports. Procurement transactions shall be conducted to provide maximum open and free competition. Each sole-source procurement single vendor response to a competitive bid, and all purchases require prior approval of NMDHSEM.
- E. The sub-recipient will follow the property standards articulated in 2 C.F.R. § 200.310 through 2 C.F.R. § 200.326. The sub-recipient shall maintain an effective property management system; safeguards to prevent loss, damage or theft; maintenance procedures to keep equipment in good condition; and disposition procedures. Property and equipment records shall be maintained for a period of three years following the final disposition, replacement or transfer of the property and equipment.

### **ARTICLE 13: CONTRACTS**

- A. Contractors that develop or draft specifications, requirements, Statements of Work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Local bidder's preference is not allowed for federally funded procurements. Procurement transactions shall be conducted to provide maximum open and free competition. Each sole-source procurement, single vendor response to a competitive bid, and all purchases require prior approval of DHSEM.
- B. Any contract shall comply with the requirements of Procurement Standards Sections of 28 C.F.R. Parts 66 and 70, 2 C.F.R. Part 200 and OMB Circulars A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments" for expenditure of Federal funds under this Sub-recipient Grant Agreement. Applicants shall submit procurement and contracts to NMDHSEM for review prior to approval. Contracts for professional services must meet applicable local, state, and federal requirements. All contractors must be licensed in New Mexico for the type of work that is required. Prior to any contracted work beginning, the sub-recipient shall provide NMDHSEM with a copy of the contractor's license. Contract work must not exceed the scope of work and PW awarded amount prescribed by FEMA, unless requested through a scope of work change and approval from FEMA.
- C. Any contract entered during this sub-grant period shall comply with local, State, and Federal government contracting regulations. Professional and consultant services contracts must include local, State, and Federal government-required contract language, a project budget, SOW, and a pay schedule. **All contracts require pre-approval by DHSEM prior to execution.** Contract deliverables must meet the intent of the grant application and grant requirements. Justification is required for compensation for individual consultant services, which must be reasonable and consistent with the amount paid for similar services in the marketplace. Detailed invoices and time and effort reports are required for consultants.

### **ARTICLE 14: COMPETITION AND CONFLICTS OF INTEREST**

- A. Among the requirements of 2 C.F.R. § 200.319(b) applicable to all non-federal entities other than states, in order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. The FEMA considers these actions to be an organizational conflict of interest and interprets this restriction as applying to contractors that help a sub-recipient develop its grant application, project plans or project budget. This prohibition also applies

to the use of former employees to manage the grant or carry out a contract when those former employees worked on such activities while they were employees of the non-federal entity.

- B.** Under this prohibition, unless the sub-recipient solicits for and awards a contract covering both development and execution of specifications (or similar elements as described above), and this contract was procured in compliance with 2 C.F.R. §§ 200.317 – 200.327, federal funds cannot be used to pay a contractor to carry out the work if that contractor also worked on the development of those specifications. This rule applies to all contracts funded with federal grant funds, including pre-award costs, such as grant writer fees, as well as post-award costs, such as grant management fees. Additionally, some of the situations considered to be restrictive of competition include, but are not limited to:
- a. Placing unreasonable requirements on firms for them to qualify to do business;
  - b. Requiring unnecessary experience and excessive bonding;
  - c. Noncompetitive pricing practices between firms or between affiliated companies;
  - d. Noncompetitive contracts to consultants that are on retainer contracts;
  - e. Organizational conflicts of interest;
  - f. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
  - g. Any arbitrary action in the procurement process.
- C.** Per 2 C.F.R. § 200.319(c), the sub-recipient must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, tribal, or territorial geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. **When contracting for architectural and engineering services, geographic location may be a selection criterion, provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.**
- D.** Under 2 C.F.R. § 200.318(c)(1), the sub-recipient is required to maintain written standards of conduct covering conflicts of interest and governing the actions of their employees engaged in the selection, award, and administration of contracts. **No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.** Such conflicts of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The non-federal entity's officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, sub-recipient entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity.
- E.** Under 2 C.F.R. § 200.318(c)(2), if the sub-recipient has a parent, affiliate, or subsidiary organization that is not a state, local, tribal or territorial government, the sub-recipient must also maintain written standards of conduct covering organizational conflicts of interest. In this context, organizational conflict of interest means that because of a relationship with a parent company, affiliate, or subsidiary organization, the sub-recipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. The non-federal entity must disclose in writing any potential conflicts of interest to FEMA or NMDHSEM in accordance with applicable FEMA policy.

## ARTICLE 15: CONTRACTS

- A. Contracts for professional and consultant services executed during this grant period must include federal, state, local, tribal, and territorial government-required contract language and a project budget and require pre-approval by NMDHSEM prior to implementation. Contract deliverables must meet the intent of the grant application and grant requirements. Justification is required for compensation for individual consultant services, which must be reasonable and consistent with the amount paid for similar services in the marketplace. Detailed invoices and time and effort reports are required for consultants. See 2 C.F.R. § 200.1, 2 C.F.R. § 200 Appendix II to Part 200.

## ARTICLE 16: AUDIT REQUIREMENTS

- A. As a federal grant recipient, the State of New Mexico requires a sub-recipient expending \$750,000 or more in federal funds in the organization's fiscal year to conduct an organization-wide audit in accordance with the Single Audit described in 2 C.F.R. § 200.501. The sub-recipient will permit state or federal officials and auditors to have access to sub-recipient and contractor records and financial statements as necessary for the state to comply with 2 C.F.R. § 200.501. Copies of audit findings must be submitted to NMDHSEM within 30 days after the sub-recipient receives its audit report, or within a 9-month period of the grant closeout date, whichever is earlier. Include the federal agency name, program, grant number, the CFDA title and number, and the name of the pass-through agency (NMDHSEM) in all documents.

## ARTICLE 17: RECORDS RETENTION

### A. Records Retention.

- a. **State Requirement.** The State must retain records for three years after all projects are complete and the federal disaster is formally closed out, except in certain rare circumstances described in 2 C.F.R. § 200.334 (Retention requirements for records), from the date it submits the final Federal Financial Report (SF-425) to FEMA in compliance with 2 C.F.R. § 200.334. If FEMA administratively closes the grant where no final SF-425 was submitted, FEMA uses the date the grant was administratively closed as the start date for the three-year record retention period.
- b. **Sub-recipient Requirement.** The sub-recipients must retain project or subaward records for at least three years from the date that the NMDHSEM submits to FEMA the final expenditure report for a project or subaward. If, however, there is any litigation, claim, negotiation, audit, request for information, or other action involving the project or subaward that starts before that date, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the three-year period, whichever is later.
- c. The sub-recipient will follow the record retention and access standards articulated in 2 C.F.R. § 200.333 through 2 C.F.R. § 200.337. The grant financial and administrative records shall be maintained for a period of three years following the date of the closure of the grant award, or audit if required. Time and effort, personnel and payroll records for all individuals reimbursed under the award must be maintained. Property and equipment records shall be maintained for a period of three years following the final disposition, replacement or transfer of the property and equipment.
- d. The sub-recipient will be required to maintain project records until the expiration of the appropriate retention period. This includes records related to Management Costs, procurement, contracting, accounts payable, engineering, inventory, force account (materials, labor, and equipment), insurance

settlements or other records related to the project scope of work. Retention procedures are outlined in the Hazard Mitigation Assistance Grant Programs Administrative Plan.

## **ARTICLE 18: CHANGES TO AWARD**

- A.** In keeping with 2 C.F.R. § 200.308, the sub-recipient must report deviations from the approved budget, project or program scope, or objective(s) in accordance with 2 C.F.R. § 200.329. The sub-recipient must request prior approvals for budget and program plan revisions in accordance with this section. The sub-recipient must request prior written approval for the following program and budget-related reasons:
- a. Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
  - b. Change in key personnel (including employees and contractors) that are identified by name or position in the Federal award.
  - c. The disengagement from a project for more than three months, or a 25 percent reduction in time and effort devoted to the Federal award over the course of the period of performance, by the approved project/program director.
  - d. The inclusion, unless waived by the Federal agency, of costs that require prior approval in accordance with 2 C.F.R. Subpart E as applicable.
  - e. The transfer of funds budgeted for participant support costs to other budget categories.
  - f. Subaward activities not proposed in the application and approved in the Federal award or NMDHSEM sub-grant agreement.
  - g. Changes in the total approved cost-sharing amount.
  - h. The need arises for additional Federal funds to complete the project.
  - i. Transferring funds between the construction and non-construction work under a Federal award.
  - j. A no-cost extension (meaning, an extension of time that does not require the obligation of additional Federal funds) of the period of performance
- B.** All change requests must be submitted either in writing or electronically to the NMDHSEM contact for review 90 days before this Sub-recipient Grant Agreement is terminated. A justification narrative and a budget and spending plan must accompany all change requests. All change requests must be consistent with the scope of the project and grant guidelines. Change requests will be considered only if reporting requirements are current and all other terms and conditions of this Sub-recipient Grant Agreement have otherwise been met at the time of the request. If approved by NMDHSEM and FEMA, changes in the programmatic activities, the purpose of the project, key personnel specified on the grant award, contractual services for activities central to the purposes of the award, change in the project site, or release of special conditions, will result in an amendment to this award. Requests for changes must be formally submitted to NMDHSEM and FEMA.
- C.** Changes to this Sub-recipient Grant Agreement will be made via a Sub-recipient Grant Agreement Amendment. The NMDHSEM will prepare each Amendment when needed. No Sub-recipient Grant Agreement Amendment is valid until fully executed.

## **ARTICLE 19: REMEDIES FOR NONCOMPLIANCE**

- A.** For the reasons listed below, special conditions may be imposed, reimbursements may be partially or wholly withheld, the award may be wholly or partly suspended or terminated, or future awards, reimbursements, and award modifications may be withheld. The NMDHSEM may institute the following, but is not limited to, withholding authority to proceed to the next phase of a project, requiring additional or more detailed financial reports, additional project monitoring, and/or establishing additional prior approvals. The

NMDHSEM shall notify the sub-recipient of its decision in writing, stating the nature and the reason for imposing the conditions/restrictions, the corrective action required the timeline to remove them, and the method of requesting reconsideration of the imposed conditions/restrictions. The sub-recipient must respond within five days of receipt of notification.

- a. Unwillingness or inability to attain project goals or scope of work.
  - b. Unwillingness or inability to adhere to Special Conditions of this Sub-recipient Grant Agreement.
  - c. Failure or inability to adhere to grant guidelines and federal compliance requirements.
  - d. Improper procedures regarding contracts and procurements.
  - e. Failure to submit reliable and/or timely reports.
  - f. Fiscal management which does not meet reasonable professional standards.
  - g. Failure or inability to adhere to the terms and conditions of this Sub-recipient Grant Agreement.
  - h. Unwillingness or inability to obtain permits required by law to perform the eligible work.
  - i. Noncompliance with any and all federal, state, local, and tribal grant requirements.
- B.** The NMDHSEM shall notify the sub-recipient of any non-compliance issues in writing and shall attempt to arrive at a resolution in a timely and reasonable fashion. If corrective action is required, NMDHSEM and the sub-recipient shall determine a timeline and landmarks for remediation. The NMDHSEM may require additional detailed financial reports or additional project monitoring. The ultimate penalty for non-compliance with the terms and conditions of this Sub-recipient Grant Agreement is for payments to be withheld or for the award to be suspended or terminated. The sub-recipient agrees to make restitution if necessary.
- C.** The NMDHSEM may take action as it determines appropriate under the circumstances, including but not limited to withholding of payments, disallowance of costs, suspension or termination of the award if the sub-recipient fails to comply with applicable Federal and State statutes, regulations, or the terms of this Sub-recipient Grant Agreement pursuant to 2 C.F.R. § 200.339.
- D.** Nothing in this section abrogates the sub-recipient's right of appeal.

## **ARTICLE 20: TERMINATION**

- A. For Cause:** In compliance with 2 C.F.R. § Part 200.340(a)(1), the award may be reduced or terminated without compensation for reduction or termination costs if performance is not occurring as agreed. The NMDHSEM will provide five days' notice to the sub-recipient stating the reasons for the action, steps taken to correct the problems, and the commencement date of the reduction or termination. The NMDHSEM will reimburse the sub-recipient only for acceptable work or deliverables, necessary and allowable costs incurred through the date of reduction or termination. Final payment may be withheld at the discretion of NMDHSEM until completion of a final NMDHSEM review. Disposition of any equipment acquired under a terminated grant must be in accordance with 2 C.F.R. § 200.313(e).
- B. For Convenience:** In compliance with 2 CFR Part 200.340(a)(4), this Agreement may be terminated without cause by the sub-recipient upon written notice setting forth the reasons for such termination and the effective date at least 30 days prior to the intended date of termination. A termination pursuant to this provision does not nullify a party's obligations for performance or liabilities for failure to perform already incurred prior to the termination date. Any project may be terminated upon convenience, in whole or in part, for the convenience of the sub-recipient. However, a partial termination notification must specify the portion of the project which is to be terminated. Allowable costs obligated and/or incurred through the termination date shall be reimbursed. Disposition of any equipment acquired under a terminated grant must be in accordance with 2 C.F.R. § 200.313(e).

## ARTICLE 21: CLOSEOUT OF SUB-GRANT

**A. Closeout of Projects.** Per 2 C.F.R. § 200.344, sub-recipients must submit all costs and supporting documentation for completed projects. The NMDHSEM will review and verify all costs and supporting documents to validate compliance. Failure to comply will result in the project's de-obligation. The NMDHSEM will close each sub-recipient file once it has conducted a full review and approval of all supporting documents for compliance, all projects are completed, and project activity is closed out.

- a. Management Costs.** Management Costs will be used for internal staff salaries, contractor payments and other support costs associated with this grant. This will be in accordance with all laws, rules, and FEMA regulations. Management Costs will be processed in accordance with the Hazard Mitigation Assistance Program and Policy Guide.

**The NMDHSEM commits to the closeout of all grants regardless of the availability of management costs.**

## ARTICLE 22: SPECIAL CONDITIONS

- A.** The terms of this Sub-recipient Grant Agreement are contingent upon sufficient appropriations and authorizations being made by the USDHS FEMA under the Robert T. Stafford Disaster Relief and Emergency Assistance Act U.S.C. §§ 5121-5207. If sufficient appropriations and authorizations are not made by FEMA this Sub-recipient Grant Agreement shall terminate immediately upon written notice being given by NMDHSEM to the sub-recipient. The decision of NMDHSEM shall be final.
- B.** If NMDHSEM proposes an Amendment to the Sub-recipient Grant Agreement to unilaterally reduce funding, the sub-recipient shall have the option to terminate the Sub-recipient Grant Agreement or agree to the reduced funding within 30 days of receipt of the proposed Amendment.
- C.** Each party shall be solely responsible for fiscal or other sanctions occasioned because of its own violation of requirements applicable to the performance of this Sub-recipient Grant Agreement. Each party shall be liable for its own actions or inactions in accordance with state law, and nothing herein shall be deemed a waiver, indemnity, or otherwise create or effect liabilities between the parties.
- D.** The grant award amount is a funding allocation and is not to be interpreted as expenditure authorizations or approvals.
- E.** All awarded projects must be planned for, conducted, budgeted, and expended within the designated performance period.
- F.** Quarterly financial and progress reports within the POP are due on October 15, January 15, April 15, and July 15. Final reports are due 15 days after the end of POP.
- G.** All revision requests must be reviewed and approved by NMDHSEM staff. All requests must meet the original scope of the project which may result in a sub-recipient grant amendment.
- H.** A revision of a project's SOW must be pre-approved by NMDHSEM staff before the jurisdiction can proceed with the request for approval process. If the revision is approved, NMDHSEM staff may request additional documentation to proceed with a recommendation to NMDHSEM Leadership for final approval.

- I. The beneficiary of this award is solely responsible for all expenditures that are incurred outside of the award performance period. All expenditures that are incurred above and beyond the amount of this Sub-recipient Grant Agreement are the sole responsibility of the sub-recipient of this award.
- J. Procurement from Minority-Owned and Women-Owned Businesses is encouraged and must be tracked and reported to NMDHSEM on the quarterly reports.
- K. Upon completion of all awarded projects, any remaining funds will be de-obligated and reverted to NMDHSEM for return to FEMA.
- L. NMDHSEM will determine extensions due to exigent or emergency circumstances on a case-by-case basis.



**State of New Mexico**  
**Department of Homeland Security & Emergency Management**  
 P.O. Box 27111  
 Santa Fe, NM 87502

The acceptance of a subgrant from the United States and the State of New Mexico creates a legal duty and obligation on the part of the sub-recipient to use the funds or property made available in accordance with the conditions of the grant as administered by and through the New Mexico Department of Homeland Security and Emergency Management. By signing this obligating award document, the sub-recipient certifies it has read, understood, and accepted these documents as binding.

**SUB-RECIPIENT GRANT AGREEMENT**  
**Signatures of Acceptance**

<b>SUB-GRANT NO:</b>	<b>DR-4652-0006-NM</b>		
<b>JURISDICTION GRANT PROGRAM MANAGER PRINTED NAME:</b> Philo Shelton			
<b>OFFICIAL SIGNATURE:</b>			<b>DATE:</b>
<b>CONTACT NUMBER:</b>	505-662-8148	<b>E-MAIL ADDRESS:</b>	philo.shelton@losalamosnm.gov
<b>JURISDICTION CHIEF <u>FINANCIAL</u> OFFICER PRINTED NAME:</b> Melissa Dadzie			
<b>OFFICIAL SIGNATURE:</b>			<b>Date:</b>
<b>CONTACT NUMBER:</b>	505.662.8018	<b>E-MAIL ADDRESS:</b>	melissa.dadzie@losalamosnm.gov
<b>JURISDICTION SIGNATORY OFFICIAL PRINTED NAME:</b> Anne Laurent			
<b>OFFICIAL SIGNATURE:</b>			<b>DATE:</b>
<b>CONTACT NUMBER:</b>	505-663-1750	<b>E-MAIL ADDRESS:</b>	anne.laurent@losalamosnm.gov
<b>NMDHSEM MITIGATION PROGRAM BUREAU CHIEF PRINTED NAME:</b>			
<b>NMDHSEM MITIGATION PROGRAM BUREAU CHIEF OFFICIAL SIGNATURE / DATE:</b>			
<b>NMDHSEM GRANTS MANAGEMENT BUREAU CHIEF PRINTED NAME:</b>			
<b>NMDHSEM GRANTS MANAGEMENT BUREAU CHIEF OFFICIAL SIGNATURE / DATE:</b>			
<b>NMDHSEM DEPUTY CABINET SECRETARY OFFICIAL PRINTED NAME:</b>			
<b>NMDHSEM DEPUTY CABINET SECRETARY OFFICIAL SIGNATURE / DATE:</b>			

Sign and email to [DHSEM.MITIGATION@DHSEM.nm.gov](mailto:DHSEM.MITIGATION@DHSEM.nm.gov)

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**ATTACHMENT 1**  
**FY 2024 U.S. Department of Homeland Security Terms and Conditions**  
**Version 3 dated April 4, 2024**

The Fiscal Year (FY) 2024 Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2024 and flow down to sub-recipients unless a term or condition specifically indicates otherwise. For federal awards that may involve continuation awards made in subsequent FYs, these FY 2024 DHS Standard Terms and Conditions will apply to the continuation award unless otherwise specified in the terms and conditions of the continuation award. The United States has the right to seek judicial enforcement of these terms and conditions.

All legislation and digital resources are referenced with no digital links. These FY 2024 DHS Standard Terms and Conditions are maintained on the DHS website at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

- **Assurances, Administrative Requirements, Cost Principles, Representations, and Certifications**  
Recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non- Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the federal awarding agency.
- **General Acknowledgements and Assurances Recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located at 2 C.F.R. Part 200 and adopted by DHS at 2 C.F.R. § 3002.10.**

All recipients and sub-recipients must acknowledge and agree to provide DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337. Recipients must cooperate with any DHS compliance reviews or compliance investigations.

Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities and personnel.

Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or federal awarding agency program guidance.

Recipients must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receiving the Notice of Award for the first award under which this term applies. Recipients of multiple federal awards from DHS should only submit one completed tool for their organization, not per federal award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active federal award, not every time a federal award is made. Recipients must submit the completed tool, including supporting materials, to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in these DHS Standard Terms and Conditions. Sub-recipients are not required to complete and submit this tool to DHS. The evaluation tool

can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. [DHS Civil Rights Evaluation Tool | Homeland Security](#).

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

- **Standard Terms & Conditions**

**Acknowledgement of Federal Funding from DHS**

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

**Activities Conducted Abroad**

Recipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.

**Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (codified as amended at 42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

**Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

**Best Practices for Collection and Use of Personally Identifiable Information**

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

**Civil Rights Act of 1964 – Title VI**

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

**Civil Rights Act of 1968**

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284 (codified as amended at 42 U.S.C. § 3601 *et seq.*) which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex, as implemented by the

U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units— i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

#### Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.

#### Debarment and Suspension

Recipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit recipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

#### Drug-Free Workplace Regulations

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

#### Duplicative Costs

Recipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior budget period. (See 2 C.F.R. § 200.403(f)). However, recipients may shift costs that are allowable under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal financial assistance award terms and conditions.

#### Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

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

E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

#### Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this

Act.

#### False Claims Act and Program Fraud Civil Remedies

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

#### Federal Debt Status

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

#### Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of E.O. 13513.

#### Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: [Certificated Air Carriers List | US Department of Transportation, https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list](https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list)) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

#### Hotel and Motel Fire Safety Act of 1990

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

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

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

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

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

#### Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds

provided under a federal award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).

#### National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

#### Nondiscrimination in Matters Pertaining to Faith-Based Organizations

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

#### Non-Supplanting Requirement

Recipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.

#### Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated by reference. All recipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the Award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.

#### Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 *et seq.* and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.

#### Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962) and 2 C.F.R. § 200.323. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R.

Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

#### Rehabilitation Act of 1973

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

#### Reporting of Matters Related to Recipient Integrity and Performance

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

#### Reporting Subawards and Executive Compensation

For federal awards that equal or exceed \$30,000, recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation set forth at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated by reference.

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

Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

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

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

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

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

#### **Waivers**

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these

requirements.

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

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

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

### ***Definitions***

The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.

### **SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The SAFECOM Guidance is updated annually and can be found at [Funding and Sustainment | CISA.](#)

### **Terrorist Financing**

Recipients must comply with E.O. 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the E.O. and laws.

### **Trafficking Victims Protection Act of 2000 (TVPA)**

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106- 386, § 106 (codified as amended at 22 U.S.C. § 7104). The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated by reference.

### **Universal Identifier and System of Award Management**

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

### **USA PATRIOT Act of 2001**

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

#### Use of DHS Seal, Logo and Flags

Recipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

#### Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections at 10 U.S.C § 470141 U.S.C. § 4712.

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## ATTACHMENT 2 Reimbursement Checklist

**DHSEM reserves the right to update this check list throughout the life of the grant to ensure compliance with applicable federal and state rules and regulations. *Please only check the categories that apply to the reimbursement you are currently requesting.***

### EQUIPMENT

- Have all invoices been included?
- Has AEL # been identified for each purchase?
- If service/warranty expenses are listed, are they only for the performance period of the grant?
- Has proof of payment been included? (e.g., canceled check, Electronic Funds Transfer (EFT) confirmation, or P-Card back up documentation which will include receipt with vendor, copy of credit card statement showing expense charged, and payment to credit card Company for that statement)

### CONSULTANTS/CONTRACTORS

- Does the amount billed by consultant add up correctly?
- Has all appropriate documentation to denote hours worked been properly signed?
- Have copies of all planning materials and work product (e.g., meeting documents, copies of plans) been included? (If a meeting was held by recipient or contractor/consultant of recipient, an agenda and sign-up sheet with meeting date must be included).
- Has the invoice from consultant/contractor been included?
- Has proof of payment been included? (e.g., canceled check, Electronic Funds Transfer (EFT) confirmation, or P-Card back up documentation which will include receipt with vendor, copy of credit card statement showing expense charged, and payment to credit card Company for that statement).

### SALARY POSITIONS (Note: this applies to positions billed under M&A)

- Have the following been provided: signed time sheet by employee and supervisor and proof that employee was paid for time worked (statement of earnings, copy of payroll check or payroll register)?
- Has a time period summary sheet been included for total claimed amount?
- Has a general ledger payroll report been included for total claimed amount? Ensure this report includes both employee and employer payroll information (i.e., benefits/contributions).
- Does the back-up documentation include a copy of the check stub per employee for the time period covered?
- Does the back-up documentation provided match the time period for which reimbursement is being requested?

### **OTHER:**

- If EHP form needed – has copy of it and approval from USDHS/FEMA been included?

### MATCHING FUNDS (IF APPLICABLE)

- Contributions are from Non-Federal funding sources.
- Contributions are from cash or in-kind contributions which may include training investments.
- Contributions are not from salary, overtime, or other operational costs unrelated to training.

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## ATTACHMENT 3 Glossary and Definitions

**Applicant:** When an entity applies for PA funding, it is the **Applicant**. Once the Applicant receives funding, it is either the **recipient, pass-through entity, or a sub-recipient**.

**Authorized Equipment List (AEL):** The Authorized Equipment List (AEL) is a list of approved equipment types allowed under FEMA's preparedness grant programs.

**Backfill:** The act of filling a position left by another employee who has been moved to another role.

**Cost Match:** Recipient or sub-recipient contribution. This can be cash (hard match) or third party in-kind (soft match). 2 C.F.R. 200.306.

*Cost Sharing or Matching:* The portion of project costs not paid by federal funds or contributions (unless otherwise authorized by federal statute). 2 C.F.R. 200.1 Cost sharing or matching.

**Declared fire:** An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, which the FEMA Regional Administrator has approved in response to a state's request for a fire management assistance declaration and in accordance with the criteria listed in 44 C.F.R. 204.21. Fire Management Assistance Declaration Criteria.

*Disallowed costs:* Those charges to a federal award that the federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable federal statutes, regulations, or the terms and conditions of the federal award. 2 C.F.R. 200.1 Disallowed costs.

**Demobilization:** The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support a declared fire.

**Disaster:** An emergency condition affecting all or part the state, overwhelming local resources, in which there is likely to be a significant recovery period. The Governor may request a Robert T. Stafford Act (Stafford Act) Disaster Declaration through FEMA, asking for the Public Assistance Program, Fire Management Assistance Program, Individual Assistance Program and Mitigation based upon known and estimated damage assessment data.

**Disaster Recovery Reform Act of 2018 (DRRA):** The DRRA represents the most comprehensive Emergency Management reform since the Post-Katrina Emergency Management Reform Act in 2006. It includes a larger and more reliable funding stream for pre-disaster mitigation, expanded assistance for individuals and households, and support for states, localities, tribes, and territories (SLTTs) to develop their own emergency management capabilities.

**Emergency:** A condition in which local and state emergency response agencies are overwhelmed by an incident to the point that federal assistance is needed. Unlike a disaster, an emergency does not have a recovery phase. The Governor may request a Stafford Act Emergency Declaration through FEMA, asking for the Public Assistance Program and/or Fire Management Assistance Grant.

**Emergency Work:** Work which must be done before, during and immediately after a disaster event to save lives and to protect improved property and public health and safety or to avert or lessen the threat of a major disaster. The FEMA Public Assistance emergency work Categories are:

- Category A (Debris Removal)
- Category B (Emergency Protective Measures)

**Equipment:** Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000. 2 C.F.R. 200.1 Equipment.

*Expenditures:* Charges made by a non-federal entity to a project or program for which a federal award was received. 2 C.F.R. 200.1 Expenditures.

**Federal Award:** The federal financial assistance that a recipient receives directly from a federal awarding agency or indirectly from a pass-through entity. 2 C.F.R. 200.1 Federal award.

**Federal Emergency Management Agency (FEMA):** The federal agency responsible for coordinating disaster recovery efforts in partnership with state, local, and tribal governments.

**Federal Share:** The portion of the federal award costs that are paid using federal funds. 2 C.F.R. 200.1 Federal share.

**FEMA/State Agreement:** A formal, legal document between FEMA and the state or a tribal government giving the understandings, commitments, terms, conditions, and timelines for assistance resulting from a federal disaster, emergency, or fire declaration, declared by the President.

**Governor's Authorized Representative (GAR):** The person designated by the Governor to execute all necessary documents for disaster assistance programs on behalf of the state and local grant recipients. The GAR is responsible for state compliance with the FEMA/State Agreement. The GAR may also be designated as the State Coordinating Officer.

**Hazard Mitigation:** Mitigation is the effort to reduce loss of life and property by lessening the impact of disasters.

**Hazard Mitigation (Sections 404 and 406):** Section 406 Mitigation measures are specific to the mechanism of the declared disaster and are an integral part of the reconstructed work on a facility or will protect or benefit the repaired portion of the facility. These are different from mitigation measures that are considered for eligibility under the Hazard Mitigation Grant Program (HMGP) of Section 404 of the Stafford Act. In the HMGP program, measures are proposed that may involve facilities other than those damaged by the disaster, new facilities, or even non-structural measures such as the development of floodplain management regulations.

**Incident Period:** The time interval during which the declared disaster occurs. The Regional Administrator, in consultation with the Governor's Authorized Representative and the Principal Advisor will establish the incident period. Generally, costs must be incurred during the incident period to be considered eligible.

The declaration designates the incident period. The incident period is the span of time during which the federally declared incident occurs. This period varies in length, depending on the incident.

**Improved Project:** When performing restoration work on a damaged facility, a sub-recipient may use the opportunity to make improvements to the facility. Projects that incorporate such improvements are improved projects. The improved facility must have the same function and at least the equivalent capacity as that of the pre-disaster facility. Federal funding for improved projects is limited to the lesser of the following: the federal share of the approved estimated costs to restore the damaged facility to its pre-disaster design and function or the federal share of the actual cost of completing the improved project.

The sub-recipient must obtain FEMA approval, via the NMDHSEM, for an improved project prior to construction.

**Indirect Costs:** Costs a recipient or sub-recipient incurs for a common or joint purpose benefitting more than one cost objective that are not readily assignable to the cost objectives specifically benefited.

**Joint Field Office (JFO):** A temporary facility established in or near a declared disaster area to serve as the field headquarters for FEMA, other federal and state recovery personnel, and serve as the focal point for federal disaster operations, direction, coordination, and information.

**Large Project:** An approved project estimated to cost the same as or more than the large project threshold amount. The large project threshold is a dollar amount adjusted annually to reflect changes in the Consumer Price Index for all urban consumers. The large project threshold amount, applicable to all projects, is the amount in effect on the declaration date of the disaster, regardless of when project approval is made or when the work is performed.

**Management Costs:** Management costs are any indirect costs, any direct administrative costs, and any other administrative expenses associated with the administration of HMA awards and subawards. Management costs are provided under HMGP, HMGP Post Fire, BRIC and FMA. For the Hazard Mitigation Grant Program (HMGP) and Hazard Mitigation Grant Program Post Fire (HMGP Post Fire), recipients will be reimbursed no more than 15% of the total amount of the award, of which not more than 10% may be used by the recipient and 5% by the sub-recipient. Under HMGP and HMGP Post Fire, recipients' Administrative Plans must include procedures for monitoring and reporting on sub-recipient management costs before receiving funding for management costs. For Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA), recipients may apply for a maximum of 10% of the total funds requested in their application cost estimate (federal and non-federal shares) for management costs to support the sub-applications included as part of their award. Subapplicants for BRIC and FMA may apply for a maximum of 5% of the total funds requested in a sub-application for management costs. Additional information is available in FEMA Policy #104-11-1, Hazard Mitigation Grant Program Management Costs (Interim).

**Pass-through Entity:** A non-federal entity that provides a subaward to a sub-recipient to carry out part of a federal program. 2 C.F.R. 200.1 Pass through entity (PTE).

**Performance Period for Hazard Mitigation Assistance:** The period of time stipulated in the Sub-recipient Grant Agreement, as amended, during which the sub-recipient must finish the approved work. Projects completed after the active Period of Performance deadline will be considered ineligible.

**Quarterly Financial Progress Report:** The information in this report is used by NMDHSEM to monitor sub-recipient cash flow, performance, and project implementation to ensure proper use of federal funds.

**Recipient:** Formally referred to as the grantee or sub-grantee or applicant. Federally Recognized Indian Tribal Governments may also be Recipients if they so desire and if they meet FEMA requirements.

**Recovery Officer:** Aids in the administration of disaster recovery grant programs for statewide disasters and emergencies. Coordinates and co-administers disaster recovery grant programs, ensuring that they are implemented and carried out according to state and federal program requirements.

**Recovery Unit:** This is the unit within the NMDHSEM Response and Recovery Bureau designated as responsible for the programmatic administration of the FEMA PA and FMAG Programs.

**Recovery Unit Manager:** Responsible for administering and supervising staff responsible for federal and state disaster recovery programs and serves as the Deputy State Coordinating Officer (SCO) for emergencies or major disaster declarations.

**Response & Recovery Bureau Chief:** Responsible for supervising staff responsible for federal and state disaster recovery programs and staff that provides operational response capabilities to support the citizens of New Mexico. This position also serves as State Coordinating Officer (SCO) for emergencies or major disaster declarations.

**Request for Approval Form:** Used by sub-recipient to request approval from NMDHSEM to expend funds for previously identified and approved projects. Approval must be received prior to expenditure.

**Small Project:** An approved project estimated to cost less than the large project threshold amount.

**State Coordinating Officer (SCO):** The person designated by the Governor to coordinate state and local disaster assistance efforts with those of the federal government. The GAR may also be the SCO. The Governor will name the GAR and the SCO in the FEMA/State Agreement.

**Sub-recipient:** Formally referred to as the sub-grantee or applicant, is a state agency, local government, tribal government, other legal governmental entity, or a private non-profit (PNP) organization that receives a sub-grant award and which is accountable to the state for the use of the funds provided. The FEMA reserves the final decision as to sub-recipient eligibility.

**Supplanting:** When a state or unit of local government reduces state or local funds for an activity specifically because federal funds are available (or expected to be available) to fund that same activity. When supplanting is not permitted, federal funds must be used to **supplement** existing state or local funds for program activities and may not replace state or local funds that have been appropriated or allocated for the same purpose. Additionally, federal funding may not replace state or local funding that is required by law. If a question of supplanting arises, the sub-recipient or grantee will be required to substantiate that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds. US Department of Justice Office of Justice Programs, Grants 101.

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## **ATTACHMENT 4**

### **Acronyms**

**AEL:** Authorized Equipment List  
**AGAR:** Alternate Governor's Authorized Representative  
**ASB:** Administrative Services Bureau of NMDHSEM  
**CFDA:** Catalog of Federal Domestic Assistance  
**DAC:** Direct Administrative Costs  
**DOT:** Department of Transportation  
**DPS:** Department of Public Safety  
**DRRA:** Disaster Recovery Reform Act of 2018  
**DSCO:** Deputy State Coordinating Officer  
**DSIBD:** Deputy State Infrastructure Branch Director  
**DSPAGS:** Deputy State Public Assistance Group Supervisor  
**EMAC:** Emergency Management Assistance Compact  
**EMMIE:** Emergency Management Mission Integrated Environment  
**EMNRD:** Energy, Minerals and Natural Resources Department  
**FEMA:** Federal Emergency Management Agency  
**FFATA:** Federal Funding Accountability and Transparency Act  
**FMAG:** Fire Management Assistance Grant  
**GAR:** Governor's Authorized Representative  
**IMAS:** Intrastate Mutual Aid System  
**INF:** Immediate Needs Funding  
**IOF:** Initial Operating Facility  
**JFO:** Joint Field Office  
**NSPO:** Net Small Project Overrun  
**NMDHSEM:** New Mexico Department of Homeland Security and Emergency Management  
**ONA:** Other Needs Assistance  
**OMB:** Office of Management and Budget  
**PA:** Public Assistance  
**PAGS:** Public Assistance Group Supervisor  
**PAPPG:** Public Assistance Program and Policy Guide  
**PDA:** Preliminary Damage Assessment  
**PDMG:** Program Delivery Manager  
**PIO:** Public Information Officer  
**PNP:** Private Non-Profit  
**POP:** Period of Performance  
**PW:** Project Worksheet  
**QPR:** Quarterly Progress Report  
**QFR:** Quarterly Financial Report  
**R&R:** Response & Recovery Bureau  
**REC:** Record of Environmental Consideration  
**RO:** Recovery Officer  
**RP A:** Request for Public Assistance  
**SCO:** State Coordinating Officer

**SOW:** Scope of Work

**SHARE:** New Mexico Statewide Human Resources, Accounting, and Management Reporting System

**SIBD:** State Infrastructure Branch Director

**SPAGS:** State Public Assistance Group Supervisor

**SPAO:** State Public Assistance Officer

**USDHS:** United States Department of Homeland Security

**USFS:** US Forest Service

**VFO:** Virtual Field Office

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