

Request for Proposals

Disaster Recovery Services

Mora-San Miguel Electric Cooperative, Inc.

Current and Future Disasters

RFP No. 2024-01-001

Mora-San Miguel Electric Cooperative, Inc. is soliciting Request for Proposals from qualified firms to provide present and future Disaster Support Services.

Requests for Proposals/Scope of Work may be obtained by contacting Les Montoya, General Manager, at lmontoya@morasanmiguel.coop or 575-383-4276.

Deadline to submit Proposals shall be March 18, 2024 @ 5:00 PM MST. Proposals shall be mailed to P.O. Box 240, Mora, New Mexico, 87732 or delivered to 501 State Hwy 518 Mora, New Mexico. Emailed Proposals will not be accepted.

Additional requirements of interested offerors will be included in the RFP document.

Request for Proposals will advertise on February 23, 2024 and March 1, 2024.

Mora-San Miguel Electric Cooperative, Inc.

Les W. J. Montoya, General Manager

REQUEST FOR PROPOSALS
DISASTER RECOVERY SERVICES
MORA SAN MIGUEL ELECTRIC COOPERATIVE
CURRENT AND FUTURE DISASTERS



RFP NO. 2024-01-001

Mora San Miguel Electric Cooperative

RELEASE: February 16th, 2024

PROPOSAL SUBMITTAL DUE DATE: March 18th, 2024

NOTICE OF REQUEST FOR PROPOSALS (RFP)
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- a. All responses to this Request for Proposals shall be sent to:

Mora San Miguel Electric Cooperative
Attn: Les Montoya
P.O. Box 240 Mora, NM 87732

- b. Please place one (1) original and four (4) copies of your response in a sealed envelope and clearly label in the lower left corner "RFP NO. 2024-01-001". No faxed, emailed or telephone statement will be accepted.
- c. All responses must be received by March 18th, 2024 at 5:00 pm, at which time they will be opened. It is the responsibility of the respondent to ensure that the response is received by the date and time specified above. Late responses will be returned to the respondent unopened.
- d. Any questions regarding this Request for Proposals shall be in writing either by mail or email to lmontoya@morasanmiguel.coop. No questions shall be received after March 8th, 2024. No other staff or officials associated with this project should be contacted regarding the RFP. Doing so may result in disqualification. Mora San Miguel Electric reserves the right to accept or reject any and all responses to this RFP.
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1. PROJECT DESCRIPTION

Mora San Miguel Electric Cooperative (MSMEC) has four FEMA Public Assistance Projects that are obligated and in process and is presently preparing FEMA applications for another three Public Assistance Projects based on recent Damage Inventories. MSMEC is seeking a qualified Disaster Recovery firm to support Federal Emergency Management Agency (FEMA) projects and assist with various aspects related to current and future disasters. The search for Disaster Recovery firms is being conducted by means of public invitation to any prospective qualified Offerors.

BACKGROUND INFORMATION

Mora San Miguel Electric Cooperative sustained significant damages as a result of the Hermit's Peak/Calf Canyon (HPCC) wildfire declared DR 4652 NM. MSMEC was awarded FEMA Public Assistance funds to reimburse expenditures incurred as a result of the event and is pursuing all options available under the Federal Public Assistance Program and other available programs, including funding for danger tree cutting and removal, emergency protective measures, mitigation strategies, including 404 and 406 Mitigation, and other repair/replacement electrical grid infrastructure strategies.

SCOPE OF WORK

MSMEC seeks professional assistance with FEMA and other sources of recovery funds. The selected firm will work closely with MSMEC and its engineering firm, Transmission & Distribution Services, LLC (T&D) to support a broad range of issues including the following:

1. Identify potential Disaster Relief and Recovery Programs for which MSMEC is eligible.
2. Provide guidance regarding compliance with the Robert T. Stafford Disaster Relief and Emergency and Assistance Act.
3. Support MSMEC's applications and damage claims filed through FEMA, the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), the HPCC Fire Public Assistance Act, other programs such as 404 and 406 Hazard Mitigation Programs, and any other eligible programs.
4. Aid MSMEC's internal resources and procedures for processing invoices and payments of services rendered by vendors and contractors and reconciling paid invoices with reimbursement claims.
5. Develop processes and provide project closeout assistance.
6. Review/Audit of MSMEC internal processes utilized with contractors and recommend corrective measures and improvements.
7. Assist MSMEC to ensure sufficient cash flow sources and management related to Public Assistance funding for projects above \$1 million.

The selected Offeror will assist MSMEC in strategically managing certain project development and administration of various Federal and State Disaster Programs related to DR 4652 NM as well as any other presidentially declared emergencies or disasters that occur during the term of this contract. Such Federal Programs may include but are not limited to: FEMA Public Assistance (PA), FEMA 404 and 406 Hazard Mitigation Grant Programs, and other disaster recovery funding sources. The awarded firm will support project development and grants management for existing, open disaster recovery efforts.

The scope of work for these projects and all accounting of the scope of work to be provided for these projects must conform to FEMA, the New Mexico Department of Financial Administration, and New Mexico Department of Homeland Security reimbursement requirements. The selected Firm will also assist MSMEC in the administration of the federal public assistance grant and reimbursement requests to the State of New Mexico.

Offeror is subject to the terms of MSMEC's Sub-Recipient Grant Agreement attached to this RFP as Exhibit C, the Required Clauses as stated in this RFP, and such other terms and requirements as MSMEC may deem necessary.

PROPOSAL FORMAT AND PROPOSAL EVALUATION CRITERIA

MSMEC will use the following format and proposal evaluation criteria to rank proposals:

Proposal Format

Offerors shall submit a Proposal to MSMEC in the format described below.

Offerors shall include, but need not be limited to, the following five (5) components (in addition to the attachments) as identified below. For uniformity in the Proposal review process, please sequence Proposals as shown below. Information provided for this and the following sections may be used in the contract between the successful Offeror and MSMEC.

1. Introduction and Statement of Qualifications – 10 points

Offeror shall describe the unique qualifications of their organization in providing these services.

2. Project Team – 10 points

The names of the project team that will be assigned to this project if Offeror is awarded, including individuals in leadership capacities for the Scope of Work.

3. References – as described below in Organization References – 10 points

4. Scope of Services – 35 points

For each item under Scope of Services in this RFP, describe Offeror's ability to provide the Services, identify and describe any known constraints in fulfilling the Scope of Services as described, and identify any modifications to the proposed Scope of Services that may be deemed necessary or may aid in successfully delivering the Services.

5. Cost – 35 points

Using Offeror's own document, propose costs for all services by labor classification, defined clearly in individual line items, and any optional services clearly defined as "Optional" where indicated.

6. New Mexico Resident Business Certificate – 3 points

7. Disadvantaged Business Certification – 3 points

Discussions may be conducted with responsive Offerors who submit proposals determined to be reasonably likely to be selected for award for the purpose of clarification to ensure full understanding and conformation with the solicitation requirements for the purpose of obtaining best and final

Organizational References

Offerors should provide a minimum of three (3) references from similar projects performed for clients within the last three years. Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, MSMEC reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

Offerors shall submit the following Business Reference information as part of Offer:

- a. Client name;
- b. Project description;
- c. Project dates (starting and ending);
- d. Staff assigned to reference engagement that will be designated for work per this RFP;
and
- e. Client project manager name, telephone number, fax number and e-mail address.

Required Clauses

Submittals Required upon Provisional Award

Failure to provide the following documentation within the time period specified may be cause for the provisional award to be voided and the submittal to be rejected as non-responsive:

- Insurance Requirements as specified in Section 9.0, if not currently on file
- A current, fully executed Taxpayer Identification Number (W-9 form)
- A current New Mexico Business license, if applicable.
- Attestation, Non-Solicitation, and E-Verify Forms

Hold Harmless

To the fullest extent permitted by law, Offeror shall indemnify, hold harmless, and defend MSMEC and all of its Agents and Employees, from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of Company.

Non-assignability

No Offeror shall assign any interest in this contract by assignment, transfer, or novation, without prior written consent of MSMEC. This provision shall not be construed to prohibit the Offeror from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to MSMEC.

Exclusions

Offeror must certify that he has not been convicted of, or has not entered into a plea of guilty or nolo contendere to public bribery, corrupt influencing, extortion, money laundering or their equivalent Federal crimes. Offeror must further certify that he has not been convicted of, or has not entered into a plea of guilty or nolo contendere to theft, identify theft, theft of a business record, false accounting, issuing worthless checks, bank fraud, forgery, Offerors' misapplication of payments, malfeasance in office, or their equivalent Federal crimes within the five (5) years prior to submitting the submittal.

Disclosure

Offeror must disclose whether it provides services or pays commissions to any employee or official of MSMEC. If so, Offeror must disclose to whom services are provided and/or commissions are paid. Both positive and negative responses must be submitted.

Termination for Cause and Convenience

Offeror acknowledges this contract contains termination provisions including the manner in which termination shall be affected and the basis for settlement. In addition, such provisions shall describe conditions for termination due to fault and for termination due to circumstances outside the Offeror's control.

Severability Clause

If any one or more of the provisions contained in this Agreement shall, for any reasons, be held to be invalid, illegal or unenforceable, in whole or in part, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and in such an event, this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had

never been contained herein.

Venue

This Agreement shall be governed by the laws of the State of New Mexico. Proper venue for any lawsuit arising under the terms of this Agreement shall be the District Court Mora County and any appropriate Appellate therefrom. Offeror hereby agrees and consents to personal and/or in rem jurisdiction of the trial and appropriate Appellate courts.

Discrimination Clause

The Offeror agrees to abide by the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, and Offeror agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Equal Employment Opportunity

During the performance of this contract, the Offeror agrees to abide by 41 C.F.R. Part 60-1.4(b).

Davis Bacon

Not Applicable for FEMA Public Assistance Grants.

Copeland Anti-Kickback Act

Not Applicable for FEMA Public Assistance Grants.

Contract Work Hours and Safety Standards Act

The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. MSMEC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

Rights to inventions made under a contract or agreement

Not Applicable for FEMA Public Assistance Grants

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to MSMEC and understands and agrees that MSMEC will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to MSMEC and understands and agrees that MSMEC will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered

transaction it enters into.

(3) This certification is a material representation of fact relied upon by MSMEC. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to MSMEC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The Offeror agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions

Procurement of Recovered Materials

A. In the performance of this contract, the Offeror shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

B. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site,
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

C. The Offeror also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Access to Records

The Offeror agrees to provide MSMEC, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Offeror which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Offeror agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Offeror agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with the Disaster Recovery Act of 2018, MSMEC and the Offeror acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States

DHS Seal, Logo and Flags

The Offeror shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Changes

No additional changes, enhancements, or modifications to any contract resulting from this RFP shall be made without the prior approval MSMEC. Any modifications to the provisions of this contract shall be in writing, signed by all parties and approved the required authorities.

Changes to the contract include any change in compensation; beginning/ ending date of the contract; scope of work; and/or Offeror change through the Assignment of Contract process. Any such changes, once approved, will result in the issuance of an amendment to the contract.

Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Offeror will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Offeror, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts

The Offeror acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Offeror's actions pertaining to this contract.

GENERAL TERMS AND CONDITIONS

1. GOVERNING LAW

The Agreement shall be governed exclusively by the laws of the State of New Mexico as the same from time to time exists.

2. INDEPENDENT CONTRACTORS

The Offeror (design professionals) and the Offeror's agents and employees are independent Contractors and are not employees of the MSMEC. The Offeror and Offeror's agents and employees shall not accrue leave, retirement, insurance, bonding, use of MSMEC vehicles, or any other benefits afforded to employees of the MSMEC as a result of the Agreement.

3. BRIBES, GRATUITIES AND KICK-BACKS

Pursuant to §13-1-191 NMSA 1978, reference is hereby made to the criminal laws of New Mexico (including § 30-14-1, § 30-24-2, and § 30-41-1 through § 30-41-3 NMSA 1978) which prohibits bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (§ 13-1-28 through § 13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

EXHIBIT A
STATEMENT OF NON-COLLUSION

By Submission of the Proposal, the Offeror Certifies that:

1. This bid or proposal has been independently arrived at without collusion with any other competitor or potential competitor;
2. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed prior to the opening of bids or proposals for this project, to any other bidder, competitor, or potential competitor;
3. No attempt has been made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
4. The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf;
5. That attached hereto (if a corporate bidder) is a certified copy of a resolution authorizing the execution of the certificate by the signatory of this bid or proposal on behalf of the corporate bidder.

Company Name

Address

Signature

Title

Date

EXHIBIT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Offeror certifies to the best of its knowledge and belief that the Offeror, the Offer's principals and any other entities owned or controlled by Offeror or Offeror's principal(s):

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal, State or local instrumentalities or being awarded a contract funded by a federal grant.
2. Have not within the last (5) years been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 1 of this certification; and
4. Have not within the last (5) years had one or more transactions terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this Bid and/or termination of the award.

Name and Title of Authorized Representative

Signature of Authorized Representative

Date

_____ I am unable to certify to the above statements. My explanation is attached.

EXHIBIT C
MSMEC Sub-Recipient Agreement



State of New Mexico

**DEPARTMENT OF HOMELAND SECURITY &
EMERGENCY MANAGEMENT**

P.O. Box 27111

Santa Fe, NM 87502

SUB-RECIPIENT GRANT AGREEMENT**FEMA-4652-DR-NM: Wildfire and Straight-line Winds****CFDA 97.036: Public Assistance Grant Program**

1. DISASTER NO.	2. SUB-RECIPIENT NAME		3. FIDUCIARY NAME	
DR-4652-NM	Mora-San Miguel Electric Cooperative		Mora-San Miguel Electric Cooperative	
5. SUPPLIER ID	6. EIN NUMBER	7. UEI NUMBER	8. CAGE CODE	
0000045847	85-0008447	U48DKL6B23M3	5DQM8	
9. SUB-RECIPIENT PHYSICAL ADDRESS		10. SUB-RECIPIENT REMIT ADDRESS		
501 State Highway 518 Mora, New Mexico 87732		P.O. Box 240 Mora, New Mexico 87732-0240		
11. NMDHSEM CONTACT NAME	12a. CONTACT DESK PHONE	(505) 238-3596		
Fenicia Ross	12b. CONTACT EMAIL ADDRESS	<u>recovery.unit@DHSEM.nm.gov</u> cc: fenicia.ross@dhsem.nm.gov		

WHEREAS, the President declared on May 4, 2022, that a major disaster exists in the State of New Mexico based on wildfires and straight-line winds beginning on April 5, 2022, and amended the declaration to include flooding and mudflows.

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

WHEREAS, the Governor of the State of New Mexico has designated the New Mexico Department of Homeland Security and Emergency Management as the state agency responsible for managing and administering Public Assistance (PA) and to serve as the "recipient" and is thereby authorized to issue this Sub-recipient Grant Agreement to the applicant «sub-recipient», the "sub-recipient."

WHEREAS, funding is provided by FEMA and the State of New Mexico for eligible expenses under FEMA-4652-DR-NM and any or all Governor's Executive Orders or Legislation that may be issued to provide funding.

NOW, THEREFORE it is mutually understood and agreed between the recipient NMDHSEM, and Mora-San Miguel Electric Cooperative, 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 declaration identified on Page 1, Box 1. Is consistent with the performance period identified on Page 1 Box 13a. and 13b. 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 thereafter, 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 the allocation of 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 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 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 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 Public Assistance Program and Policy Guide V4
 4. 2020 New Mexico Public Assistance Grant Program
 5. New Mexico Public Assistance COVID-19 Plan
 6. 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 disbursements of funds.
- B. Payment of Funds, Projects with Completed Work.** For projects that are complete at the time of obligation, the NMDHSEM will pay the sub-recipient 80% of the total federal cost share for projects that do not exceed the state's \$60k procurement threshold and or phase work. Amounts reimbursed will be based on completion of the Project Folder and Reimbursement Checklist by the Recovery Officer. Total projects and or phase work above the \$60k threshold requires a full reconciliation for 100% of project cost prior to payment. For projects with partial work completed, payment will be processed as work is completed, and sub-recipients will be able to draw off the obligation accordingly.
- C. Payment of Funds, Projects with Work Not Completed.** Payment of funds for work not completed shall be at the sole discretion of the Cabinet Secretary. Otherwise, all payments shall be processed pursuant to Article 2 Section B as described above.
- D. Donated Resources.** Sub-recipients may request a Project Worksheet (PW) for donated resources. The FEMA will prepare a PW documenting all eligible donated resources. The final obligated amount of this PW cannot exceed the non-federal share of eligible Emergency Work PWs (CAT A and CAT B.) The NMDHSEM will consider payment for the full cumulative federal share of Donated Resource PWs subject to all applicable compliance review and approvals. Donated Resource PWs will be the last PW to be paid.
- For Permanent Work, FEMA applies the donated resource offset against the non-Federal cost

share of the specific Permanent Work Project for which the resources were donated. The offset may not exceed the total out-of-pocket costs. The FEMA caps the offset at the non-Federal cost share of that specific Permanent Work Project. The type and amount of resources donated must directly correlate to, and may not exceed, the type and amount approved in the scope of work of the Permanent Work Project (e.g., if the approved scope of work includes replacement of 10 chairs and 15 chairs are donated, the donated resource offset is limited to 10 chairs). The FEMA adjusts the Permanent Work Project to capture any donated resource offsets related to the Project upon receipt of the donated resource information and no later than closeout.

- E. Large Projects.** FEMA and/or NMDHSEM may, at its discretion, require sub-recipients with large projects (more than \$1,000,000) to prepare a spend plan identifying funding needs by quarter or more frequently based on activities. All financial compliance with providing supporting documents will apply.
- 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 on Large Project Worksheet (equal to or greater than \$1,000,000 each) 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 large project, 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 recovery.unit@DHSEM.state.gov.

B. Additional Reporting Requirements. The sub-recipient must immediately report in writing to the NMDHSEM Recovery 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. Project Cost Overruns. The sub-recipient must submit project cost overruns requiring additional obligations to NMDHSEM for review and approval. Where review and approval are not sought before incurring the costs of an overrun, there is no assurance that FEMA will reimburse such costs. In compliance with 44 C.F.R. § 206.438.

D. Final Performance Report. Upon completion of each PW, the sub-recipient shall submit a Final Performance and Financial Report that includes a narrative of accomplishments under this Subgrant and a summary of actual costs for each PW. Final Performance and Financial Reports shall include sufficient detail to allow NMDHSEM to evaluate the administration of the FEMA Public Assistance Grant Program.

The Final Performance and Financial Report shall be submitted within 90-days of the completion and inspection of the final project, or not later than the date of the next scheduled Quarterly Report. The sub-recipient must submit a final performance/ progress report within 90 days of Sub-recipient Grant Agreement work being complete. Final payment will be withheld until the Final Performance Report is completed and submitted to NMDHSEM.

E. 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.

F. 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 five-year period, the records shall be retained until the litigation or audit findings have been resolved.

- G. 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.

Federal assistance under the Stafford Act and this Sub-recipient Grant Agreement is limited to those areas and programs designated by the President or FEMA in the Federal Register Notices for this Declaration, and are incorporated by reference into this Sub-recipient Grant Agreement.

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.

- H. 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.
- Public Assistance Program and Policy Guide (PAPPG). Fourth Edition (Version 4) available at https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf. The FEMA applies this Version 4 to incidents declared on or after June 1, 2020. This version supersedes Version 3.1.
- 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

Disaster assistance, except for assistance under the Hazard Mitigation Grant Program (HMGP), is limited to activities necessary to alleviate damage, loss, hardship, or suffering resulting from the incident that took place during the incident period, except that reasonable expenses that were incurred in anticipation of and immediately preceding the incident may be eligible.

Specifically, these funds shall be utilized by the sub-recipient for projects previously identified in the PWs and approved by the NMDHSEM Secretary or designee.

A. Scope of Work. The sub-recipient agrees that it will make a good faith effort to complete, in every respect possible, the Scope of Work described on PWs awarded under FEMA-4652-DR-NM. The sub-recipient agrees to adhere to the approved PW Scope of Work. Scope of Work changes are not approved and should not be carried out without an approved PW amendment from FEMA.

B. Changes to Scope of Work. The sub-recipient agrees to immediately notify NMDHSEM when the scope of work as described within the FEMA Project and grant is deviated from in any way. At such time, the sub-recipient will produce the new/revised scope of work including an updated cost estimate. Additionally, the sub-recipient hereby agrees to and understands that changes to the scope of work may jeopardize federal funding, limit reimbursement to the initial grant value, and/or impact the status of the grant as described in FEMA regulations and policies, including Public Assistance Program and Policy Guide (PAPPG). Fourth Edition (Version 4). Section VIII. CAPPED PROJECTS.

ARTICLE 5: COST SHARE

The cost share of the DR-4652-NM declaration is a 75% federal share unless otherwise stated. The non-federal share is the responsibility of the sub-recipient. There is no assurance made or implied that there will be any state share.

The sub-recipient share for this Sub-recipient Grant Agreement, pursuant to the Hermit's Peak Calf Canyon Fire Assistance Act, the federal share is 100%. The sub-recipient share for this Sub-recipient Grant Agreement is provided in Exhibit A.

ARTICLE 6: PERFORMANCE PERIODS

In accordance with the requirements set forth in 2 C.F.R. § 200.77, the performance period Category B (Emergency Protective Measures) is six (6) months from the date of the declaration. Cost records dated after the expiration of the performance period will not be accepted. If additional time is required for completion of specific Category A and B projects, the sub-recipient must request a time extension per project in writing thirty (30) days prior to the end of the performance period. The sub-recipient must provide justification for a time extension. The NMDHSEM may grant a single 6-month time extension. Additional extensions require approval by FEMA. The current period of performance for DR-4652-NM has been extended to May 4, 2023.

In accordance with the requirements set forth in 2 C.F.R. § 200.77, the performance period for all other categories of work is 18 months from the date of the declaration; cost records dated after the expiration of the performance period will not be accepted. If additional time is required for completion of specific Category C through G projects, the sub-recipient must request a time extension per project in writing 30 days prior to the deadline. The sub-recipient must provide justification for a time extension. The

NMDHSEM may grant up to 30 additional months for completion of specific projects. Additional extensions require approval by FEMA.

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 audit or review during or after 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 U.S. Health and Human Services (HHS)/Smartlink and notify FEMA when it has reimbursed that subaccount, after which FEMA will deobligate 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. Allowable costs shall be reduced by the amount of duplicate sources available. 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 costs otherwise disallowed or unused.
1. The NMDHSEM must notify FEMA of any potential debt as a result of federal funds expended in error, misrepresentation, fraud, or for costs otherwise disallowed or unused.

2. The NMDHSEM must report all cases of suspected fraud to the USDHS Office of Inspector General. The NMDHSEM must cooperate with any investigation conducted by the USDHS Office of Inspector General. The NMDHSEM must 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:
1. **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 3rd 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 promptly collect all monies due 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):
1. Increased monitoring of projects and require additional financial and performance reports.
 2. Disallow advance payment process.
 3. Temporarily withhold payments pending correction of the deficiency.
 4. Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance.
 5. Request FEMA to completely or partially de-obligate funding for a project.
 6. Temporarily withhold payments pending correction of the deficiency by the sub-recipient.
 7. Withhold further awards for the grant program.
 8. Take other programmatic or legally available remedies.

ARTICLE 8: CONSTRUCTION REQUIREMENTS

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, projects plans and specifications, applicable building codes, and program guidance.

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

The sub-recipient must provide information to FEMA 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 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.

Sub-recipients shall not undertake any activity from the project that would result in ground disturbance, facility modification, or relates 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, and modifications to buildings that are 50 years old or older, and exercises. The sub-recipient must comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. An EHP Screening Form does not need to be provided for those exercises that are planned to take place at previously approved facilities, such as, fire and police academies, search and rescue training facilities, and explosive testing centers. Any type of exercise that requires any type of land, water, or vegetation disturbance or building of temporary structures must undergo an EHP review.

Any change to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed. If ground disturbing activities occur during project implementation, the sub-recipient must ensure monitoring of ground disturbance and 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: REIMBURSEMENTS

- A. **Large Projects.** For large projects above \$1,000,000, NMDHSEM will process payment as described in Article 2 of this Sub-recipient Grant Agreement, pending full submission of supporting documentation of the actual cost of each large PW and must comply with 2 C.F.R. § 200.333 - Retention requirements for audit purposes. Additional payments can be made prior to project completion once cost documentation is approved by NMDHSEM.

The NMDHSEM will conduct a desk review of the 100% cost records and perform a final inspection for each large project, when physical work on the project is completed. When the actual cost has been determined and completion of the scope of work has been verified, NMDHSEM will request that FEMA adjust the project funding up or down to meet the actual cost. If the actual cost of a large project is less than originally estimated, NMDHSEM personnel will request a de-obligation of funds so that the final project amount will equal the actual cost. If the actual cost of the project is greater than originally estimated, NMDHSEM personnel will request an obligation of additional funds to meet the verified actual costs of the PW.

Once all claimed costs have been verified by NMDHSEM and FEMA, NMDHSEM will reimburse the sub-recipient for the full federal obligation of large projects that were complete when written and closeout the PW.

Small Projects. For small projects – less than \$1,000,000, NMDHSEM will reimburse the sub-recipient pursuant to Article 2 of this Sub-recipient Grant Agreement. The sub-recipient must submit certified

cost summary documentations and self-certification to allow NMDHSEM to determine the actual cost for each project. Cost documentation for small projects is not required to receive the federal share but must comply with 2 C.F.R. § 200.333 - Retention requirements for audit purposes.

All reimbursements are contingent upon funds being allocated, budgeted, and encumbered for that purpose. Submission of a request for reimbursement must be accompanied by the Quarterly Financial Progress Report. Reimbursement shall be based upon authorized and allowable expenditures consistent with the project narrative, grant guidelines, and the submission of timely financial and performance progress reports. Payments may be withheld by NMDHSEM pending correction of deficiencies. Reimbursement of expenditures shall be no more than quarterly for expenditures within the performance period. Expenditures must be supported with source documentation (e.g., copies of proof of payment, invoices, receipts, timesheets with name/wage/hours, cost allocation, warrants, etc.). The NMDHSEM staff will not process reimbursements if quarterly performance progress and financial reports are not submitted.

ARTICLE 11: PERFORMANCE MEASURES

The Narrative Report shall demonstrate performance and progress relative to acceptable performance on applicable critical tasks:

- Progress in achieving project timelines and milestones.
- Percent measurable progress toward completion of project.
- How funds have been expended during reporting period, and explaining expenditures related to the project.
- Applicant's expenditures to date.
- Total drawdown.
- Federal funds Disbursed.
- Approved completion date/actual completion date.
- If a time extension is needed.
- Percentage of work completed.

ARTICLE 12: SUBRECIPIENT MONITORING POLICY

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 analysis of the sub-recipient's financial, programmatic, and administrative policies and procedures. This monitoring may include 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, 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.

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 13: PROCUREMENT

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 Applicant must conform to applicable state and federal law and the Procurement Standards Sections 2 C.F.R. § 200.317-326, and Appendix II. 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.

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.

Also, per 2 C.F.R. § 200.318(i), subrecipients 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:

1. Solicitation documentation, such as requests for quotes, invitations for bids, or requests for proposals;
2. Responses to solicitations, such as quotes, bids, or proposals;
3. Pre-solicitation independent cost estimates and post-solicitation cost/price analyses on file for review by federal personnel, if applicable;
4. Contract documents and amendments, including required contract provisions; and
5. Other documents required by federal regulations applicable at the time a subgrant is awarded to a subrecipient.

Additional information on required procurement records can be found in the Procurement Disaster Assistance Team (PDAT) Field Manual, https://www.fema.gov/sites/default/files/documents/fema_PDAT-field-manual_102021.pdf.

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.

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 14: CONTRACTS

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.

In the event that a contract covers work performed for more than one approved PW, the contractor must provide detailed documentation and separate the costs conducted at each site to allow NMDHSEM to determine the actual cost of work performed for each PW. Contracts shall not name NMDHSEM, the State of New Mexico, or FEMA as interested parties. Proof of compliance with proper procurement procedures shall be a part of the official cost documentation.

Contracts for professional and consultant services executed during this grant period must include federal, state, local, tribal, and territorial government required contract language, 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 app.II to Part 200.

ARTICLE 15: AUDIT REQUIREMENTS

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 16: RECORDS RETENTION

A. Records Retention.

1. **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, notwithstanding the time period prescribed for sub-recipients in subsection V.E.2, sub-recipient Requirement, below. 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.

2. **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.

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.

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 20-22 Public Assistance/Fire Management Assistance Grant Programs Administrative Plan.

ARTICLE 17: CHANGES TO AWARD

All change requests must be submitted either in writing or electronically to the NMDHSEM contact for review 90 days prior to the termination of this Sub-recipient Grant Agreement. All change requests must be accompanied by a justification narrative and a budget and spending plan. 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, purpose of the project, key personnel specified on the grant award, contractual services for activities central to the purposes of the award, change in 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.

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 18: REMEDIES FOR NONCOMPLIANCE

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 establish 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 and 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.

- Unwillingness or inability to attain project goals or scope of work.
- Unwillingness or inability to adhere to Special Conditions of this Sub-recipient Grant Agreement.
- Failure or inability to adhere to grant guidelines and federal compliance requirements.

- Improper procedures regarding contracts and procurements.
- Failure to submit reliable and/or timely reports.
- Fiscal management which does not meet reasonable professional standards.
- Failure or inability to adhere to the terms and conditions of this Sub-recipient Grant Agreement.
- Unwillingness or inability to obtain permits required by law to perform the eligible work.
- Noncompliance with any and all federal, state, local and tribal grant requirements.

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.

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.

Nothing in this section abrogates the sub-recipient's right of appeal.

ARTICLE 19: APPEALS

- A. Right to Appeal.** Sub-recipients have the right to appeal any decision made by NMDHSEM or FEMA under the Public Assistance grant program.
- B. Electronic Submission.** Pursuant to 44 C.F.R. 206.206, for incidents declared on or after January 1, 2022, recipients and sub-recipients must submit appeals electronically. The FEMA will no longer accept hard copy first or second appeals submissions.
- C. Electronic Notification.** Similarly, FEMA will electronically notify recipients and sub-recipients of its defeminations and appeal decisions. The FEMA will no longer send hard copy notifications through standard mail or similar methods. This also applies to Requests for Information and Appeal Reviews.
- D. Procedures to Appeal Determinations.** The appeal must specifically identify the adverse action/action being appealed with supporting documentation, if appropriate, to understand the appeal and the remedial action the sub-recipient is requesting. In accordance with 44 C.F.R. 206.206, they will adhere to procedures to appeal any FEMA determination related to an application for Public Assistance.
- E. First and Second Appeals.** Pursuant to 44 C.F.R. 206.206(b)(1)(ii)(A) and 206.206(b)(2)(ii)(A), a sub-recipient may submit a first appeal in writing to the NMDHSEM within 60 calendar days from receipt of the FEMA determination that is the subject of the appeal. Upon receipt of an appeal from a sub-recipient, the NMDHSEM will review the material submitted, make such additional investigations as necessary, and will forward the appeal electronically to the Regional Administrator, (for first appeals) or the FEMA Assistant Administrator for the Recovery Directorate (for second appeals) within 60 days of receipt of the sub-recipient's appeal, with a written recommendation. The NMDHSEM may make a NMDHSEM-related first appeal within 60 calendar days from the date of the FEMA determination that is the subject of the appeal and will electronically submit their first appeal to the Regional Administrator.

- F. Appeal Deadlines:** FEMA will continue to deny any Public Assistance appeals that do not meet the respective 60-calendar day and 120-calendar day deadlines.
- G. Method for Counting Days:** All weekend days and Federal holidays count toward the 60-calendar day or 120-calendar day limit for submitting an appeal. If the deadline for an appeal falls on a Saturday, Sunday, or Federal holiday, the appeal will be considered timely if it is received by the first business day after the deadline. "Federal holiday" means a holiday recognized by the U.S. Office of Personnel Management.
- H. Finality of Decision:** A FEMA final agency determination or a decision of the Assistant Administrator for the Recovery Directorate on a second appeal constitutes a final decision of FEMA. Final decisions are not subject to further administrative review.
- I. Governors Appointed Representative (GAR):** Upon receipt of an appeal, the NMDHSEM Recovery Manager will review the material submitted and assure any needed additional research is performed. Upon completion of this process, the NMDHSEM Recovery Manager will present a recommendation to the NMDHSEM Response & Recovery Bureau Chief and the Governor's Authorized Representative (GAR) on how to respond to the appeal. The NMDHSEM will forward the appeal with its written recommendation to FEMA within 60 days.
- J. Request For Information (RFI):** Per 44 C.F.R. 206.206(b)(1)(ii)(B) and 206.206(b)(2)(ii)(B), within 90 calendar days following receipt of a first appeal or a second appeal, if there is a need for additional information, FEMA will provide electronic notice to the NMDHSEM and sub-recipient. If there is no need for additional information, then FEMA will not provide notification. The FEMA will generally allow the NMDHSEM and the sub-recipient 15 days to respond and provide any additional information. The FEMA will provide electronic notice of the disposition of the appeal to the sub-recipient and NMDHSEM within 90 calendar days of receipt of the appeal or within 90 calendar days following the receipt of additional information or following expiration of the period for providing the information.
- K. Appeal Disposition:** As described in 44 C.F.R. 206.206(b)(1)(ii)(B) and 206.206(b)(2)(ii)(B), within 90 calendar days following receipt of an appeal or receipt of requested additional information, the Regional Administrator (for first appeals) or the FEMA Assistant Administrator for the Disaster Assistance Directorate (for second appeals) will electronically notify the NMDHSEM and sub-recipient of the disposition of the appeal. If the decision is to grant the appeal, FEMA will take appropriate implementing action.
- L. Net Small Project Overruns:** A sub-recipient may request additional funding when the total actual costs of all small projects combined exceeds the total amount obligated for all the sub-recipient's small projects. The FEMA refers to this as a Net Small Project Overrun (NSPO) appeal. The sub-recipient must request the additional funding through the appeal process within 60 days of work completion on its last Small Project. The appeal must include actual cost documentation for all Small Projects that FEMA originally funded based on estimate amounts. The sub-recipient must forward the appeal with its written recommendation to FEMA within 60 days of its receipt of the appeal.

ARTICLE 20: TERMINATION

- A. For Cause:** If performance is not occurring as agreed and required herein and attempts at reconciliation have failed, the award may be reduced or terminated without compensation for reduction or termination costs. The NMDHSEM will provide notice of five days 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. The FEMA or NMDHSEM may require that all or part of federal funds reimbursed under this Sub-recipient Grant Agreement be refunded. In such case, the sub-recipient agrees to make such reimbursement in a timely fashion.

- B. For Convenience:** This Sub-recipient Grant Agreement may be terminated without cause by either of the parties upon written notice delivered to the other party 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 date of termination. Any project may be terminated upon convenience, in whole or in part, for the convenience of the Government. The USDHS and the NMDHSEM, by written notice, may terminate this grant, in whole or in part, when it is in the Government's interest. Allowable costs obligated and/or incurred through the date of termination shall be reimbursed.

Nothing in this section abrogates the sub-recipient's right of appeal.

ARTICLE 21: CLOSEOUT OF DISASTER

- A. Closeout of Projects.** Per 2 C.F.R. 200.344, sub-recipients must submit all cost 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 de-obligation of the project. The NMDHSEM will close each sub-recipient file once it has conducted full review and approval of all supporting documents for compliance and all of its small and large projects are completed and has project activity closed out.

- 1. Small Project Closeout.** The NMDHSEM will payout 100% of the Federal share of all small projects that were less than 100% complete when written as soon as the funds are available AND subject to meeting all review and approval of advance of funds request procedures that may require necessary documentation.

If a small project was 100% complete at the time the PW was prepared, the approved cost will be based on actual costs, not estimates. If the sub-recipient wishes to claim additional costs incurred on completion of the approved Scope of Work (SOW), the sub-recipient will claim costs through a Net Small Project Overrun (NSPO) appeal within 60 days of completion of the sub-recipient's last small project. The appeal must include actual cost documentation for all Small Projects that FEMA originally funded based on estimate amounts. here

FEMA closes all Small Projects when the last Small Project is completed (44 C.F.R. 206.205(a)). The NMDHSEM will submit a Small Project Completion Certification and certify that:

- a. The sub-recipient completed the approved SOWs for all Small Projects in accordance with the FEMA-State Agreement; and
- b. NMDHSEM made all payments in accordance with the FEMA-State Agreement.

- 2. Large Project Closeout.** Large projects will be closed out individually in accordance with 44 C.F.R. § 206.205(b), after the NMDHSEM has determined that all work has been completed, all necessary documents have been submitted (including litigation or lawsuits). The NMDHSEM will notify FEMA when all eligible funds have been paid to a sub-recipient and request the sub-recipient file closeout.

- 3. Management Costs. Section 324 Category Z.** Management Costs will be used for internal staff salaries, contractor payments and other support costs associated with this disaster grant. This will be in accordance with all laws, rules, and FEMA regulations. Management Costs will be processed in accordance with the Disaster Recovery Reform Act authorities and FEMA Recovery Policy FP 104-11-2 and shall not exceed 5% of grant value.

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

ARTICLE 22: SPECIAL CONDITIONS

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.

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.

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 to otherwise create or effect liabilities between the parties.

The grant award amount is a funding allocation and is not to be interpreted as expenditure authorizations or approvals.

All awarded projects must be planned for, conducted, budgeted, and expended within the designated performance period.

Quarterly financial and progress reports are due on October 15, January 15, April 15, and July 15, within the POP. Final reports are due 15 days after the end of POP.

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.

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 recommendation to NMDHSEM Leadership for final approval.

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.

Procurement from Minority Owned and Women Owned Business is encouraged and must be tracked and reported to NMDHSEM on the quarterly reports.

Upon completion of all awarded projects, any remaining funds will be de-obligated and reverted to NMDHSEM for return to FEMA.

Extensions due to exigent or emergency circumstances will be determined by NMDHSEM on a case-by-case basis.

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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

DISASTER NO:		DR-4652-NM	
EXHIBIT A – Outlines the details for each Sub-recipient Project Workbook, associated award amounts, Period of Performance (Start and End Dates), Federal, State, and Local Cost Share, and other relevant information.			
EMERGENCY MANAGEMENT PROGRAM MANAGER PRINTED NAME:			
OFFICIAL SIGNATURE:		DATE:	
CONTACT NUMBER:		E-MAIL ADDRESS:	
JURISDICTION CHIEF FINANCIAL OFFICER PRINTED NAME:			
OFFICIAL SIGNATURE:		Date:	
CONTACT NUMBER:		E-MAIL ADDRESS:	
JURISDICTION SIGNATORY OFFICIAL PRINTED NAME:			
OFFICIAL SIGNATURE:		DATE:	
CONTACT NUMBER:		E-MAIL ADDRESS:	
NMDHSEM BUREAU CHIEF PRINTED NAME:			
NMDHSEM BUREAU CHIEF OFFICIAL SIGNATURE / DATE:			
NMDHSEM GRANTS MANAGER PRINTED NAME:			
NMDHSEM GRANTS MANAGER OFFICIAL SIGNATURE / DATE:			
NMDHSEM CABINET SECRETARY OFFICIAL PRINTED NAME:			
NMDHSEM CABINET SECRETARY OFFICIAL SIGNATURE / DATE:			

Print one original agreement, sign and email to: recovery.unit@DHSEM.nm.gov

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ATTACHMENT 1
USDHS Standard Terms and Conditions
(January 24, 2022)

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

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

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

- I. USDHS financial assistance 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 USDHS financial assistance office (USDHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
- II. USDHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by USDHS at 2 C.F.R. Part 3002.
- III. By accepting this Agreement, recipients, and their executives, as defined in 2 C.F.R. § 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

B. General Acknowledgements and Assurances

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

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

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

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

C. Standard Terms & Conditions

I. Acknowledgement of Federal Funding from USDHS

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

II. Activities Conducted Abroad

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

III. Age Discrimination Act of 1975

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

IV. Americans with Disabilities Act of 1990

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

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

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. USDHS 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 USDHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

VI. Civil Rights Act of 1964 – Title VI

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

VII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

VIII. Copyright

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

IX. Debarment and Suspension

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

X. Drug-Free Workplace Regulations

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

XI. Duplication of Benefits

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

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

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

XIII. Energy Policy and Conservation Act

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

XIV. Ensuring the Future is Made in All of America by All of America's Workers

Recipients must comply with the "Build America, Buy America" provisions of the Infrastructure Investment and Jobs Act and E.O. 14005 which provide that, as appropriate and to the extent consistent with law, the recipient must use all practicable means within their authority under a federal award to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products.)

XV. 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.)

XVI. 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.)

XVII. Federal Leadership on Reducing Text Messaging while Driving

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

XVIII. Fly America Act of 1974

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

XIX. Hotel and Motel Fire Safety Act of 1990

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

XX. 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. Beginning August 13, 2020, the statute – as it applies to USDHS 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.

XXI. 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 USDHS 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>.

XXII. Lobbying Prohibitions

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

XXIII. National Environmental Policy Act

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

XXIV. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is USDHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by USDHS 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 USDHS programs.

XXV. Non-Supplanting Requirement

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

XXVI. Notice of Funding Opportunity Requirements

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

XXVII. Patents and Intellectual Property Rights

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

XXVIII. Procurement of Recovered Materials

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

XXIX. Rehabilitation Act of 1973

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

XXX. Reporting of Matters Related to Recipient Integrity and Performance General Reporting Requirements.

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

XXXI. Reporting Subawards and Executive Compensation Reporting of first tier subawards.

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

XXXII. SAFECOM

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

XXXIII. Terrorist Financing

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

XXXIV. Trafficking Victims Protection Act of 2000 (TVPA) Trafficking in Persons.

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

the full text of which is incorporated here by reference.

XXXV. Universal Identifier and System of Award Management

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

XXXVI. USA PATRIOT Act of 2001

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

XXXVII. Use of USDHS Seal, Logo and Flags

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

XXXVIII. Whistleblower Protection Act

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

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ATTACHMENT 2

Reimbursement Checklist

Please Note: NMDHSEM reserves the right to update this check list throughout the life of the sub-recipient grant to ensure compliance with applicable state, local, tribal, and territorial rules and regulations.

Documentation to Support Costs Claimed

1. Applicant Force Account (FA) Labor:

- FEMA FA Labor Summary Sheet
 - a. For each individual:
 - Certified Payroll (This can be signed CTRs or OF-288 from Fire)
 - Name
 - Job title and function
 - Type of employee (i.e., full-time exempt, full-time non-exempt, part-time, temporary, etc.)
 - Dates and times worked
 - Pay rate(s) and fringe benefit rate(s)
 - Description of work performed with representative sample of daily logs / activity reports, if available
 - Personnel Payroll policy
 - Voucher Sheets
 - If special codes are used, then explanation of which code pertains to the incidents.
 - Record of payment sheets

2. Applicant-Owned Force Account (FA) Equipment:

- FEMA FA Equipment Summary Sheet
 - a. For each piece of equipment:
 - List of equipment and attachments used during eligible work
 - including year, make, and model
 - Size/capacity (e.g., horsepower, wattage)
 - Vin number or plate number (this could be from an inventory list)
 - Locations and dates and times used and purpose Equipment shift tickets
 - Operator's name with time sheet or shift ticket
 - Schedule of rates, including rate components
 - Equipment rate sheets
 - Contracts or agreements
 - b. Lost/ Damaged Equipment
 - Full statement
 - Detailed incident report
 - Insurance documents
 - Photographs
 - "H" cost for the incident

3. Rented or Purchased Equipment:

- Rental or lease agreements
- Description of equipment and purpose
- Purchase Order

- Invoices, receipts, and proof of payments
- Days used
- Identify Operator
- Supply Order/s (if applicable)

4. Materials:

a. Stock Supplies:

- Historical cost records
- Inventory records
- Purchase Order
- Receipts
- Proof of payments
- Type of supplies and quantities used, with support documentation such as daily logs
- Supply Orders/s (if applicable)

b. Purchased Supplies:

- Type of supplies and quantities used, with support documentation such as daily logs
- Purchase Order
- Receipts or invoices
- Itemized invoices for travel costs
 - Mileage for vehicles, hotel receipts (must show a "zero" balance), airfare, food, etc.
- Proof of Payments
- Policies and Procedures for purchases
- Supply Orders/s (if applicable)

Donated Resources (Donated resources only apply to Emergency Protective Measures)

1. For each individual:

- Name
- Dates, times, location, and description of work – Signed time in and time out signed by direct supervisor or Incident Commander
- Copy of current National Volunteer Rate

2. Equipment/ Materials:

- Same information listed under FA Equipment/ Materials above
- Donated each piece of equipment, supplies or materials
 - Itemized list
 - Who
 - Quantity donated
- Donated Location(s)
 - Itemized list
 - Who
 - Purpose

Reference: Public Assistance Program and Policy Guide Version 4, Effective June 1, 2020 (FP 104-009-2).
Chapter 6: Cost Eligibility

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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**.

Alternate Project: A sub-recipient may determine that its jurisdiction would not be best served by restoring a damaged facility or its function to the pre-disaster design. In this event, the sub-recipient may use the Public Assistance grant for permanent restoration of that facility for other purposes, or it may abandon that site and use the funds for a similar purpose elsewhere, pending FEMA approval.

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 (Public Assistance Management Costs Standard Operating Procedures February 2019): FEMA provides contributions for management costs that a recipient or sub-recipient incurs in administering and managing PA awards. For recipients, FEMA provides PA funding for management costs based on actual costs incurred up to 7 percent of the total award amount. For Sub-recipients, FEMA provides PA funding for management costs based on actual costs incurred up to 5 percent of the sub-recipient's total award amount. Additional information is available in FEMA's interim policy, FEMA Recovery Policy FP 104-11-2, Public Assistance Management Costs (Interim) and FEMA's Public Assistance Management Costs Standard Operating Procedures.

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 Public Assistance: The period of time stipulated in the Sub-recipient Grant Agreement, as amended, during which the sub-recipient must finish the approved work. The FEMA allows a 6-month performance period for Category A and B work and an 18-month performance period for Categories C through G. The performance period is dated from the date of the declaration and can be extended, as detailed elsewhere in this plan. Projects completed after the active Period of Performance deadline will be considered ineligible.

Permanent Work: Restorative work performed on damaged facilities through repairs or replacement to pre-disaster design and current applicable standards. The FEMA PA Categories C through G is permanent work:

- Category C (Roads and Bridges)
- Category D (Water Control Facilities)
- Category E (Buildings and Equipment)
- Category F (Utilities)
- Category G (Parks, Recreational Facilities, and Other)

Program Delivery Manager (PDMG) [Formerly Public Assistance Coordinator/Task Force Leader (PDM/TFL)]: A primary point-of-contact assigned to each sub-recipient, who will provide assistance to the sub-recipient throughout the PA grant development process.

Project Worksheet (FEMA Form 90-91): A form used to document the scope of work and cost estimate for a specific project; these are referred to as "Sub-grant Applications" in the FEMA computer information system, Emergency Management Mission Integrated Environment (EMMIE).

Public Assistance Group Supervisor (PAGS): A state employee responsible for administering the Public Assistance Program at the state level. The PAGS or designee (not to be confused with the FEMA PAGS) will normally be a member of the New Mexico Department of Homeland Security and Emergency Management staff.

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.

Special Considerations: Issues that involve insurance, floodplain management, hazard mitigation, historic preservation, and environmental reviews as they relate to Public Assistance Program funding.

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.

State Infrastructure Branch Director (SIBD): The person responsible for administering the Public Assistance Program at the state level. The SIBD will normally be a member of NMDHSEM.

State Public Assistance Officer (SPA0): The person responsible for assisting the state Infrastructure Branch Director and Deputy Branch Director in administering the Public Assistance Program at a state level. The SPA0 will normally be a member of NMDHSEM.

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.

Virtual Field Office (VFO): A temporary facility similar to a JFO, established remotely from the declared disaster area, typically at the FEMA Regional Office, to support FEMA and other federal and state recovery

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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

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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