# NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

# FEMA-4152-DR-NM \*\*\*\*\* SUB-GRANT AGREEMENT

# CFDA 97.036: PUBLIC ASSISTANCE GRANT PROGRAM

FEMA IDENTIFIER:

FEMA-4152-DR-NM

STATE IDENTIFIER:

EO 2014-06

SUB-GRANT AGREEMENT NUMBER:

FEMA-4152-100

**GRANTOR:** 

NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT (DHSEM)

**GRANTOR ADDRESS:** 

RECOVERY UNIT, PO BOX 27111 (13 BATAAN BLVD.), SANTA FE, NM 87502

GRANTOR CONTACT INFORMATION:

**Brian Williams** 

Phone 505-476-9601 Fax 505-476-9650

Email brian.williams@state.nm.us

SUB-GRANTEE NAME (APPLICANT):

Santa Fe County

APPLICANT ADDRESS:

35 Camino Justicia Santa Fe, NM 87508

#### THE AWARD

This Sub-grant Agreement is made in good faith between the Grantor and Sub-Grantee named above, effective as of the date of the signature of the Secretary of DHSEM on the last page of this Agreement.

This Sub-grant award is provided by the Federal Emergency Management Agency and the State of New Mexico for eligible expenses under FEMA-4152-DR-NM and any or all Governor's Executive Orders or Legislation that may be issued to provide funding.

Unless otherwise noted, the FEDERAL SHARE shall be 75%; the STATE SHARE shall be 12.5%; and the APPLICANT SHARE shall be 12.5%. State agencies receive a 25% share.

The STATE SHARE and LOCAL SHARE of Project Worksheets completed under an approved Alternate Procedure Pilot Program Project Worksheet with an adjusted FEDERAL SHARE will be apportioned 50% STATE SHARE and 50% LOCAL SHARE. Example: FEDERAL SHARE 85%, STATE SHARE 7.5% and LOCAL SHARE 7.5%.

This award is made under the provisions of the following authorities:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121 et seq.;
   The FEMA/State Agreement for FEMA-4152-DR-NM;
- 3. FEMA Alternate Procedure Pilot Program Guidance;
- 4. Executive Orders 2013-031 and others that may follow.

The TOTAL AWARD is: The FEDERAL SHARE is: The STATE SHARE is:

\$358,494,02 \$268,870.52 \$ 44,811.75

The APPLICANT SHARE is:

\$ 44,811.75

DHSEM shall make payments to the Applicant according to the process detailed in the New Mexico Public Assistance Administrative Plan for FEMA-4152-DR-NM. A copy of that Plan will be provided to the Applicant upon request.

This award represents the following Project Worksheets for the amounts given:

Bundle	PW#	Project Amount
35	424	\$ 249,016.75
35	426	\$ 109,477.27

#### POINTS OF CONTACT

**Applicant Principal Point of Contact** 

Name: Address: Phone:

Email:

**Applicant Secondary Point of Contact** 

Name: Address: Phone:

Email:

Applicant Person with authority to sign this document

Name:

Phone:

Email:

Address:

#### Terms and Conditions

#### A. Scope of Work

The Applicant agrees that it will make a good faith effort to complete, in every respect possible, the Scope of Work described on all Project Worksheets under FEMA-4152-DR-NM, which are awarded under this Agreement, and to provide all necessary qualified personnel, material, and facilities to implement, carry out, and complete the work described therein.

The Applicant agrees to make no change in the Scope of Work on any Project without express written permission from DHSEM.

## B. Changes to Sub-Grant Agreement

All changes to this Sub-Grant Agreement, whether adding or subtracting funding, increasing the performance period, or other alteration, will be made via Sub-Grant Agreement Amendment. DHSEM will prepare each Amendment when needed.

- 1. DHSEM will prepare Sub-Grant Agreement Amendments for changes in funding whenever FEMA makes such changes and the funds are obligated to the State.
- 2. The Applicant must request in writing any extension in the Performance Period allowed for specific projects. Such requests must justify the need for the extension. Requests must be submitted to DHSEM no less than 30 days prior to the expiration of the Performance Period. If the request is justified, DHSEM will prepare a Sub-Grant Agreement Amendment that identifies the new Performance Period.
- 3. No Sub-Grant Agreement Amendment is valid until fully executed.

### C. Quarterly Reporting

The Applicant shall submit quarterly reports on large projects (equal to or greater than \$67,500 each) to the Recovery Unit at DHSEM beginning with the first full quarter after the signature date on the Sub-Grant Agreement. DHSEM will provide a form for this report. Quarterly reports are due no later than the 15<sup>th</sup> of the month following the end of the quarter. Quarters end on March 31, June 30, September 30, and December 31. Reports may be submitted electronically.

In order that DHSEM 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 brian.williams@state.nm.us Delinquent reports must be filed before additional payments can be made.

Upon completion of all projects, the Applicant shall submit a Final Performance and Financial Report that includes a narrative of accomplishments under this sub-grant and a summary of actual costs for each large project.

The Final Performance and Financial Report shall include, if possible, sufficient detail to allow DHSEM to evaluate the administration of the FEMA Public Assistance Grant Program.

The Final Performance and Financial Report shall be submitted within 30 days of the completion and inspection of the final project, or not later than the date of the next scheduled Quarterly Report.

## D. Additional Reporting Requirements

The applicant must immediately report in writing to the DHSEM Recovery Unit any alleged acts or allegations of fraud or misappropriation of funds for work authorized under this Sub-Grant Agreement. This extends to reporting any legal action, lawsuit, bankruptcy, or other action that may jeopardize the successful completion of any authorized project.

#### E. Reimbursement

DHSEM will reimburse the applicant for the full federal and state shares of all large or small projects that were complete when written. DHSEM will also reimburse full federal and state share of approved Alternative Procedure Pilot Projects.

DHSEM will reimburse the applicant for the full federal share of all <u>small projects</u> (less than \$67,500 each) that were less than complete when written. Cost documentation is not required to receive the federal share. Upon completion small projects that were less than complete when written, the applicant must submit cost documentation to allow DHSEM to determine the actual cost for each project. Subsequent payment of the state share will be pro-rated up to the maximum for the project. All small projects will be netted to actual cost. Applicants may be required to return excess federal funds.

DHSEM will reimburse the applicant 50% of the federal and state shares of <u>large projects</u> that were less than complete when written. The applicant must fully document the actual cost of each large project. Additional payments of the state and federal shares can be made prior to project completion if cost records support the request for payment. DHSEM will conduct a desk audit of the cost records and perform a final inspection for each large project. When the actual cost has been determined and completion of the scope of work has been verified, DHSEM will request that FEMA adjust the project funding up or down to meet the actual cost. When that action has been accomplished, DHSEM will make the final payment.

All reimbursements are contingent upon funds being allocated, budgeted and encumbered for that purpose.

## F. Procurement

Procurement shall comply with the requirements of 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 of 28 CFR Parts 66 and 70, and OMB Circular A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments." 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.

### G. Special Terms and Conditions

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act U.S.C. 5121-5206 for the FEDERAL SHARE and the New Mexico Department of Finance and Administration (DFA) under the authority of and as determined by the Governor or his Authorized Representative pursuant to and in accordance with Sections 12-11-24 through 12-11-25, NMSA 1978 for the STATE SHARE. If sufficient appropriations and authorizations are not made by FEMA or the State of New Mexico, this Agreement shall terminate immediately upon written notice being given by DHSEM to the Applicant. The decision of DHSEM shall be final.

If DHSEM proposes an Amendment to the Sub-Grant Agreement to unilaterally reduce funding, the Applicant shall have the option to terminate the Agreement or agree to the reduced funding within 30 days of receipt of the proposed Amendment.

### H. Contracts

Any contract shall comply with the requirements of the New Mexico Procurement Code for expenditure of State and Federal funds under this Agreement. Applicants shall submit contract bid specifications to DHSEM for review prior to calling for bids. Contracts for professional services must meet 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 Applicant shall provide DHSEM with a copy of the contractor's license. Contract work must not exceed the scope of work prescribed by FEMA for a specific project.

In the event that a contract covers work performed at more than one project work site, the contractor must provide detailed documentation to allow DHSEM to determine the actual cost of work performed at each project work site.

Contracts shall not name DHSEM, 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.

## I. Audit Requirements

As a federal grant recipient, the State of New Mexico requires an applicant expending \$500,000 or more in federal funds in the organization's fiscal year to conduct an organization—wide audit in accordance with the Single Audit Act described in OMB Circular A-133. The applicant will permit state or federal officials and auditors to have access to applicant and contractor records and financial statements as necessary for the state to comply with OMB Circular A-133. Copies of audit findings must be submitted to DHSEM within 30 days after the applicant receives its audit report, or within a 9-month period of the grant closeout date, whichever is earlier, in accordance with 2 AAC 45.010. The applicant must include the federal agency name, program, grant number, the CFDA title and number, and the name of the pass-through agency (DHSEM) in all documents.

#### J. Record Retention

Financial and administrative records for all projects receiving only federal funds shall be retained for a minimum period of three (3) years following the date of the receipt of the final payment of federal funds. Financial and administrative records for all projects that received state funding shall be retained for a minimum period of six (6) years following the receipt of the final payment of state funds. During the period of record retention, the sub-grant may be audited, and the applicant agrees to make their records available to auditors upon request from DHSEM.

#### K. Performance Period

In accordance with the requirements set forth in 44 CFR, the performance period for Category A (Debris Removal) and Category B (Emergency Protective Measures) is six (6) months from the date of the declaration. If additional time is required for completion of specific Category A and B projects, the applicant must request a time extension per project in writing thirty (30) days prior to the end of the performance period. The applicant must provide justification for a time extension. DHSEM may grant a single 6-month time extension. Additional extensions require approval by FEMA.

In accordance with the requirements set forth in 44 CFR, the performance period for all other categories of work is 18 months from the date of the declaration. If additional time is required for completion of specific Category C through G projects, the applicant must request a time extension per project in writing thirty (30) days prior to the end of the performance period. The applicant must provide justification for a time extension. DHSEM may grant up to 30 additional months for completion of specific projects. Additional extensions require approval by FEMA.

For FEMA-4152-DR-NM, the date of the declaration is October 29, 2013.

### L. Monitoring

DHSEM may periodically monitor an applicant's projects to ensure that program goals, objectives, timelines, budgets and other related program criteria are being met. DHSEM reserves the right to periodically review and conduct analysis of the applicant's financial, programmatic, and administrative policies and procedures. This may include unscheduled desk audits and field inspections. The Applicant shall accommodate all such requests within reason.

If the Applicant encounters any unanticipated problem with the Scope of Work, allowed costs, procurement, permitting, or other difficulty, the Applicant must communicate that problem to DHSEM promptly. Work on affected projects must be suspended until the problem is resolved.

The Applicant will immediately, no later than 24 hours upon notice, report to DHSEM allegations of wrong-doing on the part of any contractor, sub-contractor, agent or employee of the Applicant, or other interested party in reference to the work authorized under this Sub-grant. This extends to any legal action, lawsuit, bankruptcy, or other action that may jeopardize the successful completion of any authorized project.

#### M. Penalty for Non-Compliance

DHSEM shall notify the applicant 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, DHSEM and the applicant shall determine a timeline and landmarks for remediation. DHSEM may require additional detailed financial reports or additional project monitoring. The ultimate penalty for non-compliance with the terms and conditions of this Agreement is for payments to be withheld or for the award to be suspended or terminated. The Applicant agrees to make restitution if necessary.

Some of the reasons for a finding non-compliance may be, but are not limited to:

- a. Unwillingness or inability to attain project goals and scope of work;
- b. Unwillingness or inability to adhere to the requirements and conditions of this Agreement;
- c. Failure or inability to adhere to federal compliance requirements;
- d. Improper procedures regarding contracts and procurements;
- e. Failure to submit reliable or timely reports;
- f. Fiscal management which does not meet reasonable professional standards;
- g. Unwillingness or inability to obtain permits required by law to perform the eligible work.

Nothing in this section abrogates the applicant's right of appeal.

#### N. Termination for Cause

If performance is not occurring as agreed and required herein and attempts at reconciliation have falled, either DHSEM or FEMA may reduce or terminate all or part of the award without additional compensation. DHSEM or FEMA may require that all or part of state and federal funds reimbursed under this agreement be refunded. In such case, the applicant agrees to make such reimbursement in a timely fashion.

Nothing in this section abrogates the applicant's right of appeal.

## O. Termination for Convenience

Any single project or the entire sub-grant award may be terminated for convenience, in whole or in part, by written notice from DHSEM or FEMA. DHSEM shall determine the amount that the applicant must refund, and the applicant agrees to make reimbursement to DHSEM in a timely fashion.

Nothing in this section abrogates the applicant's right of appeal.

#### Requirements and Assurances

- A. The Applicant hereby agrees that the performance period for FEMA-4152-DR-NM commenced on October 29, 2013, and shall continue until project completion, consistent with the performance period limitations described previously. This Sub-grant Agreement as amended shall remain open for administrative purposes as long as necessary to achieve final payment and financial reconciliation.
- B. The Applicant hereby agrees that the Applicant official signing this Sub-grant Agreement certifies that all financial expenditures, including all supporting documents submitted for reimbursement, have been or will be incurred by the Applicant and are eligible and allowable expenditures consistent with the guidelines for this award. The Applicant agrees to follow reasonable professional standards in all financial management and bookkeeping procedures necessary to carry out this agreement.
- C. The Applicant hereby agrees that no member, officer, or employee of the Applicant 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 grant; the Applicant shall incorporate in all such contracts a provision prohibiting such interest pursuant to the purposes of this Agreement.
- D. The Applicant hereby agrees that it understands and agrees that it cannot use any state or 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 Applicant 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 Agreement; and (2) any rights of copyright to which the Applicant purchases ownership with federal support. The Applicant agrees to consult with FEMA through DHSEM regarding the allocation of any patent rights that arise from, or are purchased with, this funding
- F. The Applicant hereby agrees that signatures of the Applicant officials on this Sub-grant Agreement attest to the Applicant'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 Applicant funding to augment program activities, and not replace those funds which have been appropriated in the budget for the same purpose.
- G. The Applicant hereby agrees that their accounting system allows for separation of fund sources. Funding provided under this Agreement cannot be commingled with funds from other federal, state or local agencies, and each project must be accounted for separately.
- H. The Applicant hereby agrees that it shall comply with 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, Americans with Disabilities Act of 1991. The applicant 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 terrorlsm.
- I. The applicant hereby certifies that for its employees, it has an Affirmative Action Plan/Equal Employment Opportunity Plan. An EEOP is not required for recipients of less than \$25,000 or fewer than 50 employees.

- The applicant 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 Applicant hereby agrees that it is the responsibility of the applicant to fully understand and comply with the requirements of the following:
  - a. OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments at <a href="https://www.whitehouse.gov/omb/circulars/a102/a102.html">www.whitehouse.gov/omb/circulars/a102/a102.html</a>.
  - OMB Circular A-87 Cost Principles for State, Local and Indian Tribal Governments at www.whitehouse.gov/omb/circulars/index.html.
  - c. OMB Circular A-110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations at www.whitehouse.gov/omb/circulars/index.html
  - www.whitehouse.gov/omb/circulars/index.html
    d. OMB Circular A-21 Cost Principles for Educational Institutions at www.whitehouse.gov/omb/circulars/index.html
  - e. OMB Circular A-122 Cost Principles for Non-Profit Organizations at www.whitehouse.gov/omb/circulars/index.html
  - f. OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations at www.whitehouse.gov/omb/circulars/index.html
  - g. CFR Title 48 Federal Acquisition Regulations Systems Chapter 1 Part 31 Contract Cost Principles and Procedures
  - h. OMB Common Rule: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Incorporated into individual Federal agency's Code of Federal Regulations.
  - i. OGO Financial Guide www.dhs.gov/dhspublic/interweb/assetlibrary/Grants FinancialManagementGuide.pdf
  - j. New Mexico State Procurement Code http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0
  - k. New Mexico Administrative Code Title 2 Public Finance http://www.nmcpr.state.nm.us/NMAC/title02/title02.htm

## **SIGNATURES**

IN WITNESS WHEREOF, the Applicant and DHSEM do hereby execute this Sub-Grant Agreement as of the date last written below. This Sub-Grant Agreement has been approved by:

SUB-GRANTEE NAME (APPLICANT):  APPLICANT ADDRESS:	Santa Fe County  35 Camino Justicia  Santa Fe, NM 87508	Approved as to form Santa Fo County Attorney  By Charles of First Law  Date: 10-15  Carried Scrawde - 6/17/15
By: Missie 11. Cla	of Vice Chair	6/30/15 bate
Notary: Subscribed and sworn before	me by Miauel N	1. Chavez
this 30th of Juny month	<u>, 7015</u> . year	Jaun Janes Signature, Notary Public  My Commission Expires: February 11, 2019  AND SECURITY AND EMERGENCY MANAGEMENT:
By:	SEM .	Date
By: Secretary, DHSEM		Date

Addendum to Applicant's signature page of NM Department of Homeland Security and Emergency Management

FEMA-4152-DR-NM SUB-GRANT AGREEMENT

Geraldine Salazar

Santa Fe County Clerk

6-30-2015

Finance Department

Carole H. Jaramillo

Director

## NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

FEMA-4152-DR-NM \* \* \* \* \* \* SUB-GRANT AGREEMENT AMENDMENT (EXTENSION)

## CFDA 97.036: PUBLIC ASSISTANCE GRANT PROGRAM

FEMA IDENTIFIER:

FEMA-4152-DR-NM

STATE IDENTIFIER:

EQ 2014-006

SUB-GRANT AGREEMENT NUMBER:

4152-100

**AMENDMENT NUMBER:** 

Α1

**GRANTOR:** 

NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

(DHSEM)

**GRANTOR ADDRESS:** 

RECOVERY UNIT, PO BOX 27111 (13 BATAAN BLVD.), SANTA FE, NM 87502

**GRANTOR CONTACT INFORMATION:** 

Brian Williams

Phone 505-476-9601 Fax 505-476-9650

Email recovery.unit@state.nm.us

SUB-GRANTEE NAME (APPLICANT):

Santa Fe County

**APPLICANT ADDRESS:** 

35 Camino Justicia Santa Fe, NM 87508

## **TERMS AND CONDITIONS**

This Sub-grant Agreement Amendment is made in good faith between the Grantor and Sub-Grantee named above, effective as of the date of the signature of the Secretary of DHSEM on the last page of this Amendment.

All terms, conditions, and certifications of the original Sub-grant Agreement remain in effect unless altered herein.

The Sub-Grantee is reminded to submit to DHSEM a Quarterly Report for all large projects no later than the  $15^{th}$  of the month following the end of a Quarter.

The performance periods for the following large Category C, D, E, F, or G projects are extended as follows:

PW 424 extended to 4/29/16

The Sub-Grant total award is the same as agreed to previously:

The TOTAL AWARD is:

\$ 358,494.02

The FEDERAL SHARE is:

\$ 268,870.52

The STATE SHARE is:

\$ 44,811.75

The APPLICANT SHARE is:

\$ 44,811.75

These amounts represent the maximum amounts that have been obligated. Final payment is based on actual costs which may be less than given above.

FEMA IDENTIFIER:	FEMA-4152-DR-NM	STATE IDENTIFIER:	EO 2014-006
SUB-GRANT AGREEMENT NUMBER:	4152-100		
AMENDMENT NUMBER:	A1		
SUB-GRANTEE NAME (APPLICANT):	Santa Fe County		
APPLICANT ADDRESS:	35 Camino Justicia Santa Fe, NM 87508		
SIGNATURES			
IN WITNESS WHEREOF, the Applicant an written below. This Sub-Grant Agreement	d DHSEM do hereby execute this Sub-Gra Amendment has been approved by:	nt Agreement Amendment	as of the date last
By: Meque (M. Chay Authorized Person Vic	e Chair 7/7/15 Date		
Approved as to form Santa Fe County Attorney By: Filecte at such 481 Date: 7-10-15			
FOR THE GRANTOR, THE NEW MEXICO DE	PARTMENT OF HOMELAND SECURITY AND E	MERGENCY MANAGEMENT	
By:	M Date	AF6+40-9 5/5-/-	
By: Secretary, DHSEM	Date		
O Sections of the Country of the Cou	ATTEST:  Les aldered  GERALDINE S.  COUNTY CLER	Jalagan ALAZAR 7-	7-2015