

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT
BTWEEN CITY OF PENITAS, TEXAS AND
THE COUNTY OF HIDALGO, TEXAS**

This Agreement is made and entered into this day of , 2010, by and between the County of Hidalgo, a political subdivision of the State of Texas and the City of Penitas, Texas hereinafter referred to as “City” pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

WHEREAS, County was awarded a grant hereinafter referred to as “Operation Stonegarden Grant: or the “Grant” in the amount of One Million Three Hundred Eighty Eight Thousand and Three Hundred Twenty Two Dollars and no/100ths (\$1,388,322.00) from the U.S. Department of Homeland Security (“DHS”) through the State of Texas Governor’s Division of Emergency Management (“GDEM”) and the Texas Department of Public Safety (“TxDPS”), of which certain funds are intended to be subcontracted to various local police departments including City’s police department;

WHEREAS, the purpose of the Grant is to assist counties along the United States borders to enhance law enforcement preparedness and operational readiness among regional law enforcement agencies in a joint mission to secure the borders;

WHEREAS, the Grant allows local law enforcement agencies to use funds for certain law enforcement operating expenses while participating in border security operations approved by DHS;

WHEREAS, the Grant requires County, as the grant recipient, to comply with certain terms and conditions more particularly described in **Exhibit “A”** attached hereto and titled, “Texas Department of Public Safety 2009 Sub-Recipient Agreement for Hidalgo County,” dated June 8, 2010, and further requires any sub-recipient accepting funding from the Grant through a subcontract or agreement to also comply with certain provisions of the terms and conditions stated in the attached **Exhibit “A”**;

WHEREAS, City desires to carry out DHS eligible activities as described in the **Statement of Work** attached hereto as **Exhibit “B”**;

WHEREAS, the County proposes to contract with City in order that the eligible activities described in **Exhibit “B”** can be carried out for the benefit of the residents of County and City.

NOW THEREFORE, County and City in consideration of the mutual covenants expressed hereinafter, agree as follows:

SECTION I RULES AND REGULATIONS

The City agrees to cooperate with the County in respect to the implementation of the Grant within its jurisdiction and as supported under Public Law 110-161, Department of Homeland Security Appropriation Act of 2008.

SECTION II DEBARMENT/SUSPENSION CERTIFICATION

City certifies that City and its contractors/vendors associated with this Agreement are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not appear in the Excluded Parties List System found at <http://www.epls.gov>.

SECTION III TERMS AND CONDITIONS AND STATEMENT OF WORK

City represents that it has read and understood the Sub-Recipient Agreement between the County and the TxDPS attached hereto as Exhibit "A" and as a condition of participating in the Grant, City agrees to comply with all terms and conditions required of entities accepting funds through an agreement and the City further agrees to perform services as outlined in the Statement of Work (**Exhibit "B"**) for and in consideration of reimbursement from County in an amount not to exceed Forty Nine Thousand Eight Hundred and Fifty Seven Dollars and 22/100ths (\$49,857.22) as delineated in the **City Grant Budget (See attached Exhibit "C") and cost Reimbursement Request Form (See attached Exhibit "D")**.

City agrees to notify County in writing and obtain from County written approval, prior to any proposed changes, delays or departures from the Statement of Work (See Exhibit "B") and the City Grant Budget (See Exhibit "C").

County shall not be liable for costs incurred or performances rendered by City before commencement of this Agreement or after termination of this Agreement and shall be responsible for reimbursement as described in the Statement of Work (See Exhibit "B") and the City Grant Budget (See Exhibit "C").

SECTION IV RECORDS AND REPORTS

City agrees to establish and maintain all necessary records and reports that may be necessary for reimbursement from County of Grant funds, including but not limited to the Cost Reimbursement Form (See Exhibit "D") and Activity Log (See Exhibit "E").

City understands that it is solely the City's responsibility to keep all records and reports pertaining to Grant activity within their municipality in a manner acceptable to County. Failure to maintain records and reports may result in forfeiture of the City's designated Grant funds.

SECTION V MONITORING VISITS

City agrees to allow County to conduct on-site monitoring visits to assure compliance with applicable federal requirements, terms and conditions, and adequacy of timeliness of performance by City and those performance goals are being achieved, if applicable. City shall give Homeland Security, GDEM, TxDPS, the Comptroller General of the United States, County, County Auditor, and any of their duly authorized representatives, unobstructed and full access to and the right to examine all books, accounts, records, reports, files, and other papers, things or property belonging to or in use by City pertaining to this Agreement.

SECTION VI PAYMENT REQUESTS

City agrees to submit to the County Auditor's Office, a properly completed SSA/Division of Emergency Management Cost Reimbursement Request (See Exhibit "D") and all supporting documentation, including but not limited to General Ledger Reports, Payroll Distribution Reports, Time Sheets, Activity Logs (See Exhibit "E"), Copies of Invoices, and other related information whether or not requested by County on a monthly basis no later than the 15th of each month for the previous month. Each Cost Reimbursement Request shall be completed in the instructions included in the attached Exhibit "D".

City and County agree that all unused Grant funds at the end or termination of this Agreement will be reallocated or reprogrammed by County.

SECTION VII AUDIT REQUIREMENTS

City agrees to comply with the applicable requirements and standards as set forth in OMB Circular A-133, Audits of States, Local Governments and Non-Profit organizations.

City agrees to furnish County a Financial Management letter covering the period of this Agreement that includes detailed receipts and disbursement of payments to City hereunder. However, if City expends Five Hundred Thousand Dollars, (\$500,000.00) or more in federal funds, City must, within nine (9) months from the end of the fiscal year, supply County with an audit of revenues and expenditures conducted by a certified public accountant. If the City expends less than \$500,000.00 a year in federal awards, than they

exempt from the OMG Circular A-133 audit requirements for that year; however, records must be available for review or audit by appropriate officials of the federal agency, the General Accounting Office and County. If a City is exempt, a 990 Tax Return (Return of Organization Exempt from Income Tax), and Financial Statements are required for the most recent fiscal year ended. If applicable, City agrees to cooperate with the County relating to any inquiries regarding audits and City acknowledges that a Financial Audit shall be provided to County at the expense of the City. Audit information shall be available to County staff, and any and all applicable federal agencies.

SECTION VIII SUSPENSION AND TERMINATION

City understands that this Agreement may be suspended or terminated if City materially fails to comply with the provisions of this Agreement or the provisions so listed in attached Exhibits "A" through "E".

If City fails to fulfill in a timely and proper manner its obligations under this Agreement, or City violates any of the Agreements or stipulations of this Agreement, then the County shall provide City written notification such non-performance. Such non-performance may be the basis for immediate termination of this Agreement. **Should any breach by the City of this Agreement relate to a violation of federal law or regulation that results in GDEM (TxDPS) or Homeland Security demanding reimbursement from the County or the City or its successor, the County will terminate Agreement and seek reimbursement of all funds from City.** City shall not be relieved of the liability to the County for damages sustained by the County by virtue of any breach of this Agreement by City and County may withhold any payments to City for violations of state, local or federal regulations. Should the County become aware of any activity by City, which would jeopardize the County's position with Homeland Security, GDEM, (TxDPS) or any other state or federal agency, or which would cause a payback of federal funds, than the County may take appropriate action including injunctive relief against City to prevent the transaction as aforesaid. The failure of the County to exercise any right shall in no way constitute a waiver by the County to otherwise demand payment or seek any other relief in law or in equity to which it may be justly entitled.

It is expressly agreed that this Agreement may not be amended except in writing upon the joint action of the governing bodies of both the County and City.

SECTION IX ASSETS

City shall not purchase any asset unless so permitted by the County and such procurement shall be done in the form and manner so required by the County.

The disposition of any asset improved or acquired in part or in whole with Grant funds by the City during the Grant period or after expiration of the Grant period, must have prior written approval of the County and County shall be reimbursed for the asset, if

sold, in the full amount of the fair market value of the disposed asset. Upon such reimbursement to the County, the city shall become the owner of such asset purchased or acquired through the Grant funds and shall be responsible for the care, maintenance and repair of same. This reimbursement process shall also be applicable and in full force and effect for any asset which is no longer used for its intended Grant purpose by the City at any time during the Grant period or after expiration of the Grant period.

SECTION X LIABILITY FOR DISALLOWED COSTS

The City understands and agrees that it shall be liable to County for any costs disallowed pursuant to financial and compliance audit(s) of City agreement funds. The City further understands and agrees that reimbursement to County of such disallowed costs shall be paid by the City from funds that were not provided or otherwise made available to City pursuant to this Agreement or any other federal contract.

SECTION XI INDEMNITY CLAUSE AND INSURANCE REQUIREMENT

City agrees to hold harmless the County its elected officials, officers, employees, consultants, or agents and to indemnify County's elected officials, employees, consultants or agents and to defend county against any and all claims brought against County by elected officials, officers, employees, or agents of City or brought by any third person arising in any manner directly or indirectly from City programs, activities or events conducted pursuant to this Agreement.

City shall acquire, maintain and furnish to Count a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile insurance to cover all operations and services under this Agreement with limits of not less than \$300,000.00 per occurrence, \$300,000.00 aggregate, covering all risks incident to or in connection with the execution, performance, attempted performance or non-performance of this Agreement. This requirement shall be to meet City's duty of indemnification under this paragraph.

SECTION XII PROCUREMENT

City agrees to conform to its own applicable purchasing laws, regulations, employment policies and procedures with respect to any purchases or employment in relation to the Grant and/or this Agreement.

SECTION XIII CONFLICT OF INTEREST

City covenants that neither its elected officials, officers, employees, consultants, nor agents who exercise influence on the decision-making process presently has or will have any interest, direct or indirect, with any person, corporation, company or association that is hired to carry out any of the activities funded by the Grant. City agrees that all elected officials, officers, employees, consultants or agents shall comply fully with the requirements of Texas Local Government Code Chapter 171.

City agrees that no person who is an elected official, officer, employee, consultant, or agent of the City's organization or the County's organization shall gain any interest in any corporation, company, or association that is hired to carry out any of the activities so listed in the attached Exhibit "A" during the Grant period or for a period of one (1) year thereafter.

City is responsible for repayment of funds associated with any conflict of interest that may occur either knowingly or unknowingly.

SECTION XIV MISCELLANEOUS PROVISIONS

Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflicts exists.

No Waiver. No waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

Entire Agreement. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and City, and not otherwise.

Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in

writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by electronic mail, or (iii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: County of Hidalgo
P.O. Box 1356
Edinburg, TX 78539

If to City: City of Penitas
P.O. Box 204
Sullivan City, TX 78595

Each notice, demand, request or communication which shall be delivered to mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

Additional Documents. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

Assignment. This Agreement shall not be assignable by City. County may assign this Agreement without the consent of City.

Headings. The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

Gender and Number. All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

Authority to Execute. The execution and performance of this Agreement by County and City have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and City in accordance with its terms.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

THE CITY OF PENITAS, TEXAS

Mayor

ATTEST

City Secretary

THE COUNTY OF HIDALGO

Rene A. Ramirez, County Judge

ATTEST

Arturo Guajardo, Jr., County Clerk

APPROVE AS TO FORM:

ATLAS & HALL, L.L.P.

By Stephen Crain

EXHIBIT "A"

**GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT
(TEXAS DEPARTMENT OF PUBLIC SAFETY)
2009 SUB-RECIPIENT AGREEMENT TO HIDALGO COUNTY**



Texas Department of Public Safety

2009 Sub-Recipient Agreement for Hidalgo County

June 8, 2010

2. Prepared by: Mendez, Arturo

3. SAA Award Number: 09-SR 48215-03

Judge Rene Ramirez
Hidalgo County
100 E Cano, 2nd Floor
Edinburg, TX 78539

Federal Grant Title: Operation Stonegarden
Federal Grant Award Number: 2009-SJ-T90011
Date Federal Grant Awarded to TxDPS: August 1, 2009
Federal Granting Agency: Department of Homeland Security FEMA Grant Programs Directorate

Total Award Amount

\$1,388,322.00

Note: Additional Budget Sheets (Attachment A): Yes No

Table with 2 columns: Description, Amount. Row 1: OPSG, 97.067. Row 2: \$1,388,322.00

This award supersedes all previous awards. Performance Period: Aug 1, 2009 to Apr 1, 2012

6. Statutory Authority for Grant: This project is supported under Consolidated Security, Disaster Assistance and Continuing Appropriations Act. 2009 Public Law No. 110-329.

7. Method of Payment: Primary method is reimbursement. See the enclosed instructions for the process to follow in the submission of invoices.

8. Debarment/Suspension Certification: The Sub-Recipient certifies that the subgrantee and its' contractors/vendors are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not appear in the Excluded Parties List System at http://www.epls.gov.

Approving TxDPS Official:

Janice E. Bruno, Administrator
State Administrative Agency
Texas Department of Public Safety

Signature of TxOPS Official:

Handwritten signature of Janice E. Bruno

Vertical stamp: 2010 JUN 29 2:33 PM

10. Sub-Recipient Acceptance

I have read and understand the attached Terms and Conditions.

Type name and title of Authorized Sub-Recipient official:

Rene Ramirez, County Judge

Signature of Sub-Recipient Official:

Handwritten signature of Rene Ramirez

11. Enter Employer Identification Number (EIN) / Federal Tax Identification Number:

74-6000717

12. Date Signed :

6/22/10

13. DUE DATE: July 23, 2010

Signed award and Direct Deposit Form (if applicable) must be returned to TxDPS on or before the above due date.

2009 TERMS AND CONDITIONS
Operation Stoenegarden (OPSG)

Parties to Sub-recipient Agreement

This Sub-recipient agreement is made and entered into by and between the Texas Division of Emergency Management/State Administrative Agency, hereinafter referred to as "TDEM," and the funds recipient, hereinafter referred to as the "Sub-recipient." Furthermore, TDEM and the sub-recipient are collectively hereinafter referred to as the "Parties." By this Sub-recipient agreement's execution, the Parties have severally and collectively agreed to be bound to the mutual obligations and to the performance and accomplishment of the tasks described in this Sub-recipient agreement. The Sub-recipient Agreement is only an offer until the Sub-recipient returns the signed copy of the 2009 Sub-recipient Agreement in accordance with the date provided in the transmittal letter and in the agreement.

Sub-recipient Purpose and Overview

A. Purpose and Overview. The FY 2009 OPSG provides a flexible framework of funding to support operational efforts along our nation's land borders. This funding supports land border jurisdictions in achieving a greater capability to prevent, protect against, and respond to border security issues, encouraging local operational objectives and capabilities to enhance federal and State Homeland Security Strategies, and continuing the distinct capability enhancements required for border security and protection. The OPSG Grant guidance is very specific in what is allowable and not allowable under this grant. Please refer to the FY 2009 OPSG Grant Guidance and Application Kit. A copy of the grant guidance and application kit can be accessed at <http://www.texas.gov/dtd/government/management/opsgrants/opsgrants.pdf>, specific attention should be placed on complying with requirements associated with the allowable and unallowable expenses and general costs guidance.

B. Special Conditions. The sub-recipient is prohibited from obligating, drawing down, or expending funds provided through this award until their specific Operational Order and budget within that Operations Order, have been reviewed and approved by the appropriate Customs and Border Protection (CBP)/Border Patrol (BP) Sector Headquarters and Federal Emergency Management Agency (FEMA), Grants Programs Director (GPD), Grants Programs and Administration (G&A), Headquarters element, Washington DC. After FEMA final approval, the grantees will be notified of the approval and that grant funds have been released and made available in the amount requested in the budget section of the approved operations order.

The sub-recipient agrees that all allocations and use of funds under the grant will be in accordance with the FY 2009 Operation Stoenegarden (OPSG) Guidance and Application Kit. OPSG provides funding to designated localities to enhance cooperation and coordination among federal, state, Tribal and local law enforcement agencies to secure the United States' land borders.

Allocations and use of grant funding must support the approved law enforcement operations along our Nation's land border jurisdictions to achieve a greater capability to prevent, protect against, and respond to border security, issues, encouraging local operational objectives and capabilities to enhance federal and State Homeland Security Strategies, and continuing the distinct capability enhancements required for border security protection.

The sub-recipient may only fund activities included in an approved OPSG Operations Order submitted to DHS, evaluated and approved through the federal review process.

- 1. Applicable Laws and Regulations, hereinafter referred to as "Exhibit A";
 - 2. Certifications, hereinafter referred to as "Exhibit B"; and
 - 3. Certification Regarding Lobbying for Sub-recipient Agreements, Grants, Loans, and Cooperative Agreements, hereinafter referred to as "Exhibit C".
- D. Failure to Perform. In the event the sub-recipient fails to implement the project(s) in their approved Operations Order, or comply with any of the sub-recipient agreement's provisions, in addition to the remedies specified in this Sub-recipient agreement, the sub-recipient is liable to TDEM for an amount not to exceed the award amount of this Sub-recipient agreement and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any

other federal program funds administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved.

TDEM Obligations

A. **Measure of Liability.** TDEM shall be liable for actual and reasonable costs incurred by the Sub-recipient during the Sub-recipient agreement period for performances rendered under this Sub-recipient agreement by the Sub-recipient, subject to the limitations set forth in this Section. TDEM shall not be liable to the Sub-recipient for any costs incurred by the Sub-recipient that are not allowable costs.

B. **Sub-recipient Agreement Funds Defined and Limit of Liability.** The term "Sub-recipient agreement funds" as used in this Sub-recipient agreement means funds provided by TDEM under the DHS/FEMA grant programs. The term "Sub-recipient's funds" or match funds as used in this Sub-recipient agreement means funds provided by the Sub-recipient.

Notwithstanding any other provision of this Sub-recipient agreement, the total of all payments and other obligations incurred by TDEM under this Sub-recipient agreement shall not exceed the Total Award Amount listed on the cover page of the Sub-recipient agreement.

C. **Excess Payments.** The Sub-recipient shall refund to TDEM any sum of Sub-recipient agreement funds that has been paid to the Sub-recipient by TDEM or that TDEM determines has resulted in overpayment to the Sub-recipient that TDEM determines has not been spent by the Sub-recipient in accordance with this Sub-recipient agreement. No refund payment(s) may be made from local, state or federal grant funds unless repayment with grant funds is specifically permitted by statute or regulation. The Sub-recipient shall make such refund to TDEM within thirty (30) days after TDEM requests such refund.

Suspension

Notwithstanding the provisions of Chapter 2251, Texas Government Code, in the event the Sub-recipient fails to comply with any of this Sub-recipient Agreement's terms, TDEM may, upon written notification to the Sub-recipient, suspend this Sub-recipient agreement in whole or in part, withhold payments to the Sub-recipient and prohibit the Sub-recipient from incurring additional obligations of Sub-recipient agreement funds.

Termination

A. **TDEM's Right to Terminate.** TDEM shall have the right to terminate this Sub-recipient agreement, in whole or in part, at any time before the end of the Performance Period, whenever TDEM determines that the Sub-recipient has failed to comply with any of this Sub-recipient agreement's terms. TDEM shall notify the Sub-recipient in writing prior to the thirtieth (30th) day preceding the termination of such determination and include:

1. the reasons for such termination;
2. the effective date of such termination; and
3. in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

B. **Parties' Right to Terminate.** In addition to TDEM's right to terminate specified in Subsection A of this section, both Parties shall have the right to terminate this Sub-recipient agreement, in whole or in part, when the Parties agree that the continuation of the activities funded under this Sub-recipient agreement would not produce beneficial results commensurate with the further expenditure of Sub-recipient agreement funds. The Parties shall agree, in writing, upon the termination conditions, including the effective date of termination and in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

Conflict of Interest

A. **Financial Interest Prohibited.** A conflict of interest may arise when the employee, officer or agent; any member of his or her immediate family; his or her partner; or, any organization that employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform a subcontract pursuant to this Sub-recipient agreement. The Sub-recipient shall ensure that no employee, officer, or agent of the Sub-recipient shall participate in the selection, in the award or administration of a subcontract supported by Sub-recipient agreement funds pursuant to this Sub-recipient agreement and comply with Chapter 171, Texas Local Government Code.

B. **Other Prohibited Interests.** In all cases not governed by Subsection A of this Section and except for eligible administrative or personnel costs, no person who is an employee, agent, consultant, officer, elected official, appointed

official of the Sub-recipient or of a subcontractor of the Sub-recipient, in Subsection C of this Section who exercises or have exercised any functions or responsibilities with respect to the activities assisted under this Sub-recipient agreement or any other DHS/FEMA Sub-recipient agreement who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, have an interest in or benefit from the activity or have any interest in any Sub-recipient agreement, subcontract or agreement with respect to the activities or the proceeds either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.

C. Inclusion in Subcontracts. The Sub-recipient shall include the substance of this Section in all subcontracts.

Monitoring

~~TDEM reserves the right to perform periodic on-site monitoring of the Sub-recipient's compliance with this Sub-recipient agreement's terms and conditions and of the adequacy and timeliness of the Sub-recipient's performance pursuant to this Sub-recipient agreement. After each monitoring visit, TDEM shall provide the Sub-recipient with a written report of the monitor's findings. If the monitoring report notes deficiencies in the Sub-recipient's performance under this Sub-recipient agreement's terms, the monitoring report shall include requirements for the timely correction of such deficiencies by the Sub-recipient. Failure by the Sub-recipient to take action specified in the monitoring report may be cause for this Sub-recipient agreement's suspension or termination pursuant to Sections on the Suspension and/or Termination above.~~

Audit

A. Audit of Federal and State Funds. The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement under the Single Audit Act (OMB Circular A -- 133; 44 C.F.R. 13.26) and as outlined in Exhibit A. The Sub-recipient will also comply with Texas Government Code, Chapter 783, 1 TAC 5.141 et seq. and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements.

B. TDEM's Right to Audit. Notwithstanding Subsection A of this Section, TDEM reserves the right to conduct a financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement. The Sub-recipient agrees to permit TDEM or its authorized representative to audit the Sub-recipient's records and to obtain any documents, materials or information necessary to facilitate such audit.

C. Sub-recipient's Liability for Disallowed Costs. The Sub-recipient understands and agrees that it shall be liable to TDEM for any costs disallowed pursuant to financial and compliance audit(s) of Sub-recipient agreement funds. The Sub-recipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by the Sub-recipient from funds that were not provided or otherwise made available to the Sub-recipient pursuant to this Sub-recipient agreement or any other federal contract.

D. Sub-recipient's Facilitation of Audit. The Sub-recipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as TDEM may require of the Sub-recipient.

E. State Auditor's Office. The Sub-recipient understands that acceptance of Sub-recipient agreement funds acts as acceptance of the authority of the State Auditor's Office or any successor agency to conduct an audit or investigation in connection with these funds. The Sub-recipient further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. The Sub-recipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Sub-recipient and the requirement to cooperate is included in any subcontract it awards.

Reimbursement

Sub-recipient agrees to make no request for reimbursement prior to return of this agreement signed by the authorized Sub-recipient representative. Sub-recipient also agrees to make no request for reimbursement for goods or services procured by Sub-recipient prior to the performance period start date of this agreement.

A. Request for Advance or Reimbursement. The Sub-recipient shall submit to TDEM, a properly completed Local Purchase Submission Cover Sheet as often as actually needed. TDEM retains the authority to approve or deny amount requested and shall not make disbursement of any such payment until TDEM has reviewed and approved such a request.

The Local Purchase Submission Cover Sheet shall be supported by documentation as referenced by the SAA web-based grants management system and subsequent policy updates.

B. Request for Advance Funds and Transfer of Funds. The Sub-recipient's requests for an advance of Sub-recipient agreement funds shall be limited to the minimum amounts needed for effective operation of their project(s) under this Sub-recipient agreement and shall be timed as closely as possible to be in accord with actual cash requirements. The Sub-recipient shall establish procedures to minimize the time elapsing between the transfer of funds from TDEM to the Sub-recipient and shall ensure that such funds are disbursed within fifteen (15) days or as soon as administratively possible.

~~C. Payment Contingent. Notwithstanding the provisions of Subsection A of this Section, payments under this Sub-recipient agreement are contingent upon the Sub-recipient's performance of its contractual obligations.~~

D. Source Documentation Requirement: Sub-recipients must provide proof of payment documentation with all reimbursement requests submitted for processing. The following is a list of acceptable proof of payment documents:

- ~~o Copy of cancelled check~~
- o Screen print of General Ledger account showing funds have been encumbered
- ~~o Credit Card Statement showing purchase of the items~~
- o Payroll journal for individuals showing rate of pay and hours worked
- o Copy of invoice stamped "paid" with the date, vendor initials and check number for reference

National Incident Management System (NIMS) and the Incident Command System (ICS)

Sub-recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. NIMS compliance for 2009 must be achieved by completing actions outlined in the NIMS Implementation Matrix.

A. Adoption. The jurisdiction or organization must have formally adopted NIMS as its incident management system through ordinance, court order, or resolution. A copy of the adoption document should be provided to the Preparedness Section of the Division of Emergency Management.

B. Implementation. The jurisdiction or organization must be implementing the principles and policies of NIMS/ICS, including these major requirements:

1. Identifying specific NIMS training requirements for local emergency responder and emergency management positions; then obtaining or providing required training, and documenting it. For further information on NIMS training, see: <http://www.fema.gov/emergency/nims/NIMSTrainingCourses.shtml>
2. Updating jurisdiction or organization emergency plans and procedures to address the NIMS/ICS organizational structure, major functions, concepts, policies, and procedures.
3. Utilizing NIMS/ICS for day-to-day all-hazard emergency response and during exercises.
4. Participating in local, regional, or intrastate mutual aid programs.
5. Maintaining an inventory of emergency response assets (Texas Regional Resource Network), and identifying key assets by resource typing standards developed by FEMA to facilitate multi-agency response. For resource typing information, see: <http://www.fema.gov/emergency/nims/ResourceManagement.shtml>. This is accomplished by registering with the Texas Regional Resource Network (TRRN) and updating the information regularly. Additionally, a certification form must be on file with TDEM for every county and local jurisdiction.
6. Complete the NIMS baseline assessment and develop a local NIMS implementation plan.
7. Participate in an all-hazard exercise program based on NIMS that involves responders from multiple disciplines and multiple jurisdictions.
8. All Primary Jurisdictions must possess an independent NIMSCAST account.

For a more detailed description of these requirements, as well as other NIMS implementation requirements, see <http://www.fema.gov/emergency/nims/CurrentYearGuidance.shtml>

NIMSCAST Requirements

To be eligible to receive FY 2009 DHS funding, local primary jurisdictions and tribes must have achieved 100% compliance with the FY 2008 NIMS compliance objectives and metrics in the NIMSCAST by January 30, 2009.

All State and territory grantees were required to submit their compliance assessment via the NIMSCAST by September 30, 2008 in order to be eligible for FY 2009 preparedness programs.

Additional information on achieving NIMS compliance is available through the FEMA National Integration Center (NIC) Incident Management Systems Integration (IMSI) Division at <http://www.fema.gov/emergency/nims/>.

Other Requirements

A. During the performance period of this grant, Sub-recipients must maintain an emergency management plan at the Intermediate Level of planning preparedness or higher, as prescribed by TDEM. This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in the Sub-recipient's plan, Sub-recipient will correct deficiencies within 60 days of receiving notice of such deficiencies from TDEM.

B. Projects identified in the SAA web-based grant management system must identify and relate to the goals and objectives indicated by the applicable approved project investments for the period of performance of the grant.

C. During the performance period of this grant, Sub-recipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.

D. During the performance period, the Sub-recipient must register as a user of the Texas Regional Response Network (TRRN) and identify all major resources such as vehicles and trailers, equipment costing \$5,000 or more and specialized teams/response units equipped and/or trained using grant funds (i.e. hazardous material, decontamination, search and rescue, etc.). This registration is to ensure jurisdictions or organizations are prepared to make grant funded resources available to other jurisdictions through mutual aid.

E. Sub-recipients must submit Fiscal Year 2009 Indirect Cost Allocation Plan signed by Cognizant Agency. Plan should be forwarded to the SAA along with the Planning and Administration Grant Budget Form.

H. The State's 24 planning regions are voluntary associations of local governments organized pursuant to state law as regional planning commissions, councils of government, development councils, and area councils. It is recognized that one of the major functions of state planning regions as homeland security grant Sub-recipients is to perform a wide variety of planning and some program administration for both their region and on behalf of the cities and counties within the region that may also be homeland security grant Sub-recipients.

Closing the Grant

A. The Sub-recipient must have expended all grant funds and submitted expenditure reimbursement requests and any invoices by the end of the performance period listed on the sub-recipient agreement.

B. TDEM/SAA will close a sub-award after receiving Sub-recipient's final performance report indicating that all approved work has been completed and all funds have been disbursed, completing a review to confirm the accuracy of the reported information, and reconciling actual costs to awards modifications and payments. If the close out review and reconciliation indicates that the Sub-recipient is owed additional funds, TDEM/SAA will send the final payment automatically to the Sub-recipient. If the Sub-recipient did not use all the funds received, TDEM/SAA will issue a Grant Adjustment Notice (GAN) to recover the unused funds.

C. TDEM/SAA will unilaterally close out this grant if sub-recipient does not reconcile account and sign closeout GAN by the 60th day after the sub-recipient performance period ends.

Restrictions, Disclaimers and Notices

A. Approval of this award does not indicate approval of any consultant rate in excess of \$450 per day. A detailed justification must be submitted to and approved by TDEM/SAA prior to obligation or expenditure of such funds. U.S. Department of Justice Financial Guide (Part III Chapter 16) <http://www.ole.usdoj.gov/financialguide/>

B. In cases where local funding is established by COGs, release of funds by TDEM is contingent upon regional funding allocation approval by the Sub-recipient's COG governing board.

C. Notwithstanding any other agreement provisions, the parties hereto understand and agree that TDEM's obligations under this agreement are contingent upon the receipt of adequate funds to meet TDEM's liabilities hereunder. TDEM

shall not be liable to the Sub-recipient for costs under this Agreement which exceed the amount specified in the Notice of Sub-recipient Award.

D. **Notice.** All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

Assistant Director
Texas Division of Emergency Management
State Administrative Agency
PO Box 4087
Austin, TX 78773-0220

Uniform Administrative Requirements, Cost Principles, Audit Requirements and Program Income

Except as specifically modified by law or this Sub-recipient agreement's provisions, the Sub-recipient shall administer the award through compliance with all Applicable Laws and Regulations, Exhibit A, but specifically with:

A. Administrative Requirements

1. 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
2. 2 C.F.R. Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

B. Cost Principles

1. 2C.F.R. Part 225, Cost Principles for State, Local and Tribal Governments
2. 2C.F.R. Part 220, Cost Principles for Education Institutions
3. 2C.F.R. Part 230, Cost Principles for Non-Profit Organizations
4. Federal Acquisition Regulation Subpart 31.2, Contracts with Commercial Organizations

C. Audit Requirements – OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

Retention and Accessibility of Records

A. **Retention of Records.** The Sub-recipient shall maintain fiscal records and supporting documentation for all expenditures of Sub-recipient agreement funds pursuant to OMB Circular A-87, 44 C.F.R. § 13.42 and this Sub-recipient agreement. The Sub-recipient shall retain these records and any supporting documentation for the greater of three (3) years from the completion of this project's public objective (close of the Sub-recipient agreement), including program requirements and financial obligations, or the period of time required by other applicable laws and regulations as described in Exhibit A.

B. **Access to Records.** The Sub-recipient shall give the United States Department of Homeland Security (DHS), the Inspector General, the General Accounting Office, the Auditor of the State of Texas, TDEM, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by the Sub-recipient pertaining to this Sub-recipient agreement including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by the Sub-recipient. The Sub-recipient agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552, Texas Government Code.

C. **Inclusion in Subcontracts.** The Sub-recipient shall include the substance of this Section in all subcontracts.

Subcontracts

A. **TDEM's Approval of Subcontract and Liability.** The Sub-recipient may subcontract for performances described in this Sub-recipient agreement without obtaining TDEM's prior written approval.

B. **Sub-recipient Liability.** In no event shall any provision of this Section be construed as relieving the Sub-recipient of the responsibility for ensuring that the performances rendered under all subcontracts comply with all of this Sub-recipient agreement's terms as if such performances rendered were rendered by the Sub-recipient. TDEM's approval under this Section does not constitute adoption, ratification or acceptance of the Sub-recipient's or a subcontractor's performance.

C. **Applicable Law.** The Sub-recipient shall comply with 44 C.F.R. § 13.1-13.52 and all applicable federal and state laws outlined in Exhibit A and local laws, regulations and ordinances related to making procurements under this Sub-recipient agreement.

D. **Escrow Retainage for Construction Contracts.** TDEM shall require Sub-recipient to maintain an escrow retainage of the Sub-recipient agreement funds budgeted for construction and rehabilitation in the amount of five percent (5%) of each construction and/or rehabilitation subcontract entered into by the Sub-recipient. Before the retainage fees for construction contracts are released, TDEM shall receive a complete and executed Certificate of Construction Completion and Final Wage Compliance Report and the Sub-recipient shall certify it has received as-built plans for this Sub-recipient agreement's funded construction activities.

Legal Authority

A. **Signatory Authority.** The Sub-recipient assures and guarantees that the Sub-recipient possesses the legal authority to enter into this Sub-recipient agreement, receive Sub-recipient agreement funds and to perform the services the Sub-recipient has obligated itself to perform pursuant to this Sub-recipient agreement.

B. **Authorized Representative.** The person or persons signing and executing this Sub-recipient agreement on the Sub-recipient's behalf do warrant and guarantee that he, she or they have been duly authorized by the Sub-recipient to execute this Sub-recipient agreement on the Sub-recipient's behalf and to validly and legally bind the Sub-recipient to all contractual terms, performances and provisions.

Notice Of Litigation and Claims

The Sub-recipient shall give TDEM immediate notice in writing of:

1. any action, including any proceeding before an administrative agency, filed against the Sub-recipient arising out of the performance of any subcontract under this Sub-recipient agreement; and
2. any claim against the Sub-recipient, the cost and expense of which the Sub-recipient may be entitled to be reimbursed by DHS/FEMA grant programs.

Except as otherwise directed by TDEM, the Sub-recipient shall furnish immediately to TDEM copies of all documentation received by the Sub-recipient with respect to such action or claim.

Indemnification

To the extent permitted by law, the Sub-recipient agrees to hold TDEM harmless and to indemnify TDEM from and against any and all claims, demands and causes of action of every kind and character that may be asserted by any party occurring or in any way incident to, arising out of or in connection with the services to be performed by the Sub-recipient pursuant to this Sub-recipient agreement.

Changes and Amendments

A. **Written Amendment.** Except as specifically provided otherwise in this Sub-recipient agreement, any alterations, additions or deletions to this Sub-recipient agreement's terms shall be made through Grant Adjustment Notices generated by the SAA web-based grants management system and executed by the Parties.

B. **Authority to Amend.** This Sub-recipient agreement's performances shall be rendered in accordance with the Act, Exhibit A, the assurances and certifications made to TDEM by the Sub-recipient and the assurances and certifications made to DHS by the State of Texas with regard to the operation of the DHS/FEMA grant programs. Amendments may further be amended by TDEM, during the period of this Sub-recipient agreement's performance as TDEM issues policy directives that serve to establish, interpret or clarify this Sub-recipient agreement's performance requirements. Such policy directives shall be promulgated by TDEM in the form of Information Bulletins and shall have the effect of qualifying this Sub-recipient agreement's terms and shall be binding upon the Sub-recipient as if written in the Sub-recipient agreement.

C. **Effect of Changes in Federal and State Laws.** Any alterations, additions, or deletions to this Sub-recipient agreement's terms that are required by the changes in federal and state laws or regulations are automatically incorporated into this Sub-recipient agreement without written amendment to this Sub-recipient agreement and shall become effective on the date designated by such law or regulation. Federal Emergency Management Agency (FEMA) periodically publishes Information Bulletins to release, update, amend or clarify grants and programs which it administers. FEMA's National Preparedness Directorate Information Bulletins can be accessed at <http://www.oio.usdoj.gov/odp/docs/bulletins.htm> and are incorporated by reference into this sub-grant.

Headings

Headings and captions of this Sub-recipient agreement's sections and paragraphs are only for convenience and reference. These headings and captions shall not affect or modify this Sub-recipient agreement's terms or be used to interpret or assist in the construction of this Sub-recipient agreement.

Oral and Written Agreements

A. **Prior Agreements.** All oral and written agreements between the Parties relating to this Sub-recipient agreement's subject matter that were made prior to Date of Execution have been reduced to writing and are contained in this Sub-recipient agreement.

B. **Exhibits.** The exhibits enumerated and denominated in the agreement are hereby made a part of this Sub-recipient agreement and constitute promised performances by the Sub-recipient in accordance with the Sub-recipient agreement and the Exhibits.

C. **Commissioner's Signature.** This Sub-recipient agreement is not effective unless signed by the Assistant Director of TDEM or by his authorized designee.

Waiver

Any right or remedy provided for in this Sub-recipient agreement provision shall not preclude the exercise of any other right or remedy under this Sub-recipient agreement or under any provision of law, nor shall any action taken or failure to take action in the exercise of any right or remedy be deemed a waiver of any other rights or remedies at any time.

Venue

For purposes of litigation pursuant to this Sub-recipient agreement, venue shall lie in Travis County, Texas.

EXHIBIT A

THE APPLICABLE LAWS AND REGULATIONS

The Sub-recipient shall comply with the Act and regulations specified in Section 2; OMB Circular A-21, A-87, A-102, A-110, A-122, A-133; Ex Order 12372 (intergovernmental review of federal programs); and 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Sub-recipients shall also comply with 2C.F.R. Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, 2C.F.R. Parts 225, State and Local Governments, Part 220, Educational Institutions; and Part 230, Non-Profit Organizations. Compliance with Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial organizations is required. Sub-recipient shall also comply with all other federal, state, and local laws and regulations applicable to this Sub-recipient agreement's activities and performances rendered by the Sub-recipient including but not limited to the laws and the regulations promulgated hereunder and specified in State Administrative Agency Information Bulletins, Texas Uniform Grants Management Standards (UGMS) and Paragraph A through M of this Exhibit.

A. CIVIL RIGHTS - Title VI of the Civil Rights Act of 1964, as amended. (42 U.S.C. § 2000d et seq.); (44 C.F.R. 7.1)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+141142+2957+3+1+%28civil%29>
http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr7_07.html

B. HANDICAP AND ARCHITECTURAL BARRIERS - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); (44 C.F.R. 16.101)

<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+129132+363+0+1+%28Handicap%29>;
<http://www.access.gpo.gov/cgibin/get-cfr.cgi?TITLE=44&PART=16&SECTION=101&TYPE=TEXT>;

The Sub-recipient shall ensure that the plans and specifications for construction of, improvements to, or the renovation of buildings, related to this project have been received by the Texas Department of Licensing and Regulation (TLDR) concerning the elimination of architectural barriers encountered by persons with disabilities as specified in Chapter 469, Texas Government Code. <http://ls2.tlc.state.tx.us/statutes/gv.toc.htm>

C. ENVIRONMENTAL LAW AND AUTHORITIES - In accordance with the provisions of law cited in 44 C.F.R. § 10.8, the responsible entity shall assume the environmental responsibilities for projects under programs cited in §10.1, and in doing so shall comply with the provisions of the National Environmental Policy Act of 1969, as amended and the Council on Environmental Quality regulations contained in 40 C.F.R. parts 1500 through 1508.
http://www.access.gpo.gov/nara/cfr/waisidx_07/40cfr1501_07.html ; (44 C.F.R. 10.1)
http://edocket.access.gpo.gov/cfr_2007/octabr/44cfr10.1.htm

D. LABOR STANDARDS - The Davis-Bacon Act, as amended (40 U.S.C. § 3142)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+137140+1723+1+1+%28%29%20%20A>;
The Contract Work Hours & Safety Standards Act (40 U.S.C. § 3702)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+137140+1765+1+1+%28%29%20%20A>
; The Copeland "Anti-Kickback" Act (18 U.S.C. § 874)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+117120+511+0+1+%28%29%20%20AN>

E. FREEDOM OF INFORMATION ACT - (5 U.S.C. 552); (44 C.F.R. 5.1)
http://edocket.access.gpo.gov/cfr_2007/octabr/44cfr5.1.htm ;
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+105108+26+0+1+%28Information%29>

F. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 - If the Sub-recipient is a governmental entity, it must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and (Federal Assurance) - (42 U.S.C. 4601); (44 C.F.R. 25.1)
<http://www.access.gpo.gov/cgibin/get-cfr.cgi?TITLE=44&PART=25&SECTION=1&TYPE=TEXT>
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+141142+4600+1+1+%28%29%20%20A>

G. FAITH-BASED ACTIVITIES - Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 Fed. Reg. 77141)
<http://www.access.gpo.gov/cgibin/TEXTgate.cgi?WAISdocID=19191456488+1+1+0&WAISection=retrieve>

H. NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AND THE INCIDENT COMMAND SYSTEM (ICS) - Sub-Recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. <http://www.fema.gov/emergency/nims>

I. PROGRAM INCOME - If a Sub-recipient is approved for an advance, the funds must be deposited in a separate interest bearing account and are subject to the rules outlined in the Uniform Rule 28C.F.R. Part 68, Uniform Administrative

Requirements for Grants and Cooperative Agreements to State and Local Governments, at http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr60_03.html and the Uniform Rule 28C.F.R. Part 70, Uniform Administrative Requirements for Grants and Agreements (Including sub-awards) with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, at http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr70_03.html. Sub-recipients must report any interest earned to TDEM/SAA. Any interest earned in excess of \$100 must, on a quarterly basis, be remitted to:

United States Department of Health and Human Services
Division of Payment Management Services
P.O. Box 6021
Rockville, MD 20852

~~J. AUDITS - The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement under the Single Audit Act (OMB Circular A - 133; 44 C.F.R. 13.26)~~

~~<http://irwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=26&TYPE=TEXT>;
<http://www.cfrs.gov/ncnbtz/parents/nc-1162481126963.shtml>~~

K. GRANT ADMINISTRATION - The Sub-recipient will also comply with Texas Government Code, Chapter 783, <http://lo2.llc.state.tx.us/statutes/cv.loc.htm>; and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements, http://info.scs.state.tx.us/pls/pub/readtac?ext=TacPage?si=T&app=9&p_dir=N&p_rloc=111847&p_tloc=&p_ploc=1&pg=2&p_tac=&it=1&pt=1&ch=5&ri=141

Sub-recipients must also comply with 44 C.F.R., Part 13, http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr13_07.html; with 2C.F.R. Part 215 http://www.access.gpo.gov/nara/cfr/waisidx_08/2cfrv1_08.html#215, 2C.F.R. Part 225, Part 220 and Part 230.

L. PROPERTY ADMINISTRATION - TAC Title 1, Part 5, Chapter 116, http://info.scs.state.tx.us/pls/pub/readtac?ext=ViewTAC?tac_view=3&it=1&pt=5

M. PUBLICATIONS - 44 C.F.R., Section 13.34

<http://irwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=34&TYPE=TEXT>

1. Sub-recipient acknowledges that FEMA National Preparedness Directorate 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 an award or sub-award; and (2) any rights of copyright to which a recipient or Sub-recipient purchases ownership with Federal support. The Recipient agrees to consult with NPD regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
2. The Sub-recipient agrees that all publications created with funding under this grant shall prominently contain the following statement: "This Document was prepared under a grant from the National Preparedness Directorate, United States Department of Homeland Security. Point of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of U.S. Department of Homeland Security."

EXHIBIT B
CERTIFICATIONS

I, RENE RAMIREZ (print) as the authorized official of HIDALGO COUNTY, hereinafter referred to as the "Sub-recipient," certify the following with respect to the expenditure of Sub-recipient agreement funds.

A. The Sub-recipient shall minimize displacement of persons as a result of activities assisted with Sub-recipient agreement funds.

~~B. The program shall be conducted and administered in conformity with the Civil Rights Act of 1964 (42 U.S.C. § 2000a et seq.)~~

~~C. As specified by TDEM and FEMA, in the event that displacement of residential dwellings shall occur in connection with a project assisted with HSGP funds, the Sub-recipient shall follow a residential anti-displacement and relocation assistance plan.~~

D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28C.F.R. Part 67, Section 67.510. (Federal Certification) The Sub-recipient certifies that it and its principals and vendors:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency; Sub-recipients can access debarment information by going to www.eols.gov and the State Debarred Vendor List http://www.window.state.tx.us/procurement/proc/vendor_performance/debarred/.
2. Have not within a three-year period preceding this application 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 of 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 governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (DX2) of this certification; and
4. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and
5. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application. (Federal Certification)

E. Sub-recipient understands and certifies that it will not 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 prior written approval of FEMA National Preparedness Directorate.

F. The Sub-recipient certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Sub-recipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.


Signature

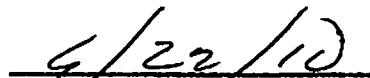

Date

EXHIBIT C

CERTIFICATION REGARDING LOBBYING FOR
SUB-RECIPIENT AGREEMENTS, GRANTS, LOANS,
AND COOPERATIVE AGREEMENTS

The undersigned, RENE RAMIREZ (print), as the authorized official of HIDALGO COUNTY certifies the following to the best of his/her knowledge and belief.

A. ~~No federal appropriated funds have been paid or shall be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal Sub-recipient agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal Sub-recipient agreement, grant, loan or cooperative agreement.~~

B. If any funds other than federal appropriated funds have been paid or shall be paid to any person for influencing or attempting 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 this federal Sub-recipient agreement grant, loan or cooperative agreement, the undersigned shall complete and submit standard form Disclosure Form to Report Lobbying form in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards including sub-contracts, sub-grants and Sub-recipient agreements under grants, loans, and cooperative agreements and that all Sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon that reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

REN RAMIREZ
Signature

6/22/10
Date

EXHIBIT "B"

STATEMENT OF WORK
CITY OF PENITAS, TEXAS
POLICE DEPARTMENT

STATEMENT OF WORK FOR PARTICIPATING LAW ENFORCEMENT AGENCIES

Hidalgo County Sheriff's Office and sixteen (16) participating local law enforcement agencies will not enforce Title 8 (US Immigration Law). Law enforcement personnel will enforce state law and local ordinances against violators in the target or participating agencies jurisdictional areas to help reduce criminal activities associated with narcotics, weapons, US currency, and human smuggling. Hidalgo County Sheriff's Office along with sixteen (16) participating local law enforcement agencies will conduct enhance law enforcement presence/patrol activities within each agency's jurisdictional boundaries.

EXHIBIT "C"

GRANT BUDGET
CITY OF PENITAS, TEXAS
POLICE DEPARTMENT

NAME:

PENTAS Operation Stonegarden (2009)

	<u>FIRST BUDGET</u>	<u>SECOND BUDGET</u>	<u>TOTAL</u>
Overtime	15,873.93	13,500.00	29,373.93
Fringe Benefits			0.00
Vehicle Maintenance			
			0.00
Equipment Maintenance			
			0.00
Equipment			
2 ATV	16,000.00		
2 Utility Trailers & Accessories		4,483.29	
			20,483.29
Fuel			0.00
Mileage			0.00
Other			
			0.00
Travel			
			0.00
TOTALS	31,873.93	17,983.29	49,857.22
FRINGE BENEFITS BREAKDOWN:			
Health Insurance			0.00
FICA			0.00
Retirement			0.00
Workers' Compensation			0.00
Unemployment Compensation			0.00
TOTAL FRINGE BENEFITS	0.00	0.00	0.00

**OPERATION ORDER REPORT
U.S. DEPARTMENT OF HOMELAND SECURITY BUREAU OF CUSTOMS
AND BORDER PROTECTION**

Op Order Name: Operation "Stonegarden (OPSG) FY 2009 TX Penitas City Police
Department

Op Order Number: DHS-09-GPD-067-1972

Op Dates: From: 10/01/2009 To: 09/30/2012

Report Date:

Objective: Reduce threat of border incursion and exercise risk management in relation to anti-smuggling efforts by increasing law enforcement presence and special operations on routes of border egress in the McAllen Station AOR.

IV. BUDGET

A.1 Cost Estimates/Funding Requests (Year 1):

Administration/Logistics/Budget Request	Narrative Justification (Computation of Items)	Federal Request	Local Share
Operational Overtime:	\$22.50 per hour OT rate x 9 personnel x 10 hours per week x 8 weeks x 1 year	\$15,873.93	\$326.07
<p align="center">Equipment:</p> <p>If our Police Department is awarded a ATV utility vehicle, it will be used for the following major purposes: (1) Drug Interdiction/Surveillance, 2) Patrol, (3) Search & Rescue and (4) Response.</p> <p>The ATV will be primarily towed on a flatbed trailer by a patrol truck assigned to the Rio Grande River, rural ranches, and surrounding farmland on a daily basis or for any unexpected emergency etc.</p>	2 ATV x \$8,000	\$16,000.00	
Total Project Cost		\$31,873.93	\$326.07
Grand Total:\$32,200			

Sup

**OPERATION ORDER REPORT
U.S. DEPARTMENT OF HOMELAND SECURITY BUREAU OF CUSTOMS
AND BORDER PROTECTION**

Op Order Name: Operation "Stonegarden (OPSG) FY 2009 TX Penitas City Police
Department
Op Order Number: DHS-09-GPD-067-1972
Op Dates: From: 10/01/2009 To: 09/30/2012
Report Date:

Objective: Reduce threat of border incursion and exercise risk management in relation to anti-smuggling efforts by increasing law enforcement presence and special operations on routes of border egress in the McAllen Station AOR.

IV. BUDGET

A.1 Cost Estimates/Funding Requests (Year 1):

Administration/Logistics/Budget Request	Narrative Justification (Computation of Items)	Federal Request
<p>Operational Overtime:</p>	<p>\$22.50 per hour OT rate x 6 personnel x 10 hours per week x 10 weeks x 1 year</p>	<p>\$13,500</p>
<p>Equipment:</p> <p>If our Police Department is awarded a ATV utility trailers and accessories will be used for the following major purposes: (1) Drug Interdiction/Surveillance, 2) Patrol, (3) Search & Rescue and (4) Response.</p> <p>The ATV will be primarily towed on a flatbed trailer by a patrol truck assigned to the Rio Grande River, rural ranches, and surrounding farmland on a daily basis or for any unexpected emergency etc.</p>	<p>2 Utility Trailers/Accessories etc.</p>	<p>\$4,483.29</p>
<p>Total Project Cost:\$32,200</p>		<p>17,983.29</p>

EXHIBIT "D"

**COST REIMBURSEMENT REQUEST FORM
CITY OF PENITAS, TEXAS
POLICE DEPARTMENT**

**Cost Reimbursement Request
Instructions**

- 1) The participating Police Department will submit a Cost Reimbursement Request due on or before the 30th of each month. Reimbursement Requests received after the deadline will not be processed until the following month.
 - a. **Operational Overtime** – Enter the title and name of the officer participating in the Operation Stonegarden project along with hourly rate, overtime rate and total amount of fringes attributed to the overtime amount. (Only FICA, Workman’s Compensation, Unemployment Compensation and Retirement fringes will be reimbursable.)
 - (1) Submit copies of time sheets with all required signatures, copies of general ledger and / or payroll distributions reports & proof of payment(i.e. copies of checks) from the Police Department’s or City’s Financial Management System to support the amount of Operational Overtime being requested.
 - b. **Travel and Per Diem** – Enter the title and name of the officer along with a brief description of the purpose of the travel and the amount incurred.
 - (2) Submit copies of travel supporting documentation (i.e. purpose of travel, proof of attendance) with all appropriate and required signatures and proof of payment (i.e. copies of general ledger and copies of checks).
 - c. **Vehicle / Equipment Rentals - Maintenance** – Enter a brief description of the type of expenditure incurred, invoice number and amount. (list each invoice separately)
 - (3) Submit copies of all invoices and proof of payment (i.e. copies of general ledger and copies of checks).
 - d. **Mileage** – Enter the vehicle identification number (as identified by local police department) along with the number of miles and rate and the total dollar amount per vehicle.
 - (4) Submit copies of mileage logs identifying mileage at beginning of trip and mileage at end of trip along with the total miles traveled supported by all appropriate and required signatures.
 - e. **Fuel Cost** – Enter the vehicle identification number (as identified by the local police department along with the number of gallons and rate per gallon and the total amount per vehicle). Note: The same vehicle can be entered multiple times depending on the different rates used.
 - (5) Submit copies of documentation supporting the amount of fuel consumption and rate with all appropriate and required signatures and / or copies of actual fuel costs along with proof of payment (i.e. copies of general ledger and copies of checks, if applicable).
 - f. **Equipment** – Enter a brief description of the equipment purchased along with the invoice number and amount. (List all invoices separately).
 - (6) Submit copies of all invoices and proof of payment (i.e copies of checks).
 - (7) Submit copies of BuyBoard invoice if purchased through BuyBoard.
 - g. Total for all categories arriving to the total amount of the Cost Reimbursement Request.
 - h. Enter the Police Department’s name.

**Cost Reimbursement Request
Instructions**

- i. Enter additional information pertaining to the Cost Reimbursement Request being submitted.
- j. Point -of- Contact - Complete the Point of Contact and Certification Authority information.

2) Reimbursement packages can be mailed or submitted in person to:

Hidalgo County Auditor's Office
2808 S. Business Highway 281
Edinburg, Texas 78539-6243

- 3) Electronic copies of supporting documentation will also be accepted; however, the Cost Reimbursement Request must be an original signed with blue ink.
- 4) If the Cost Reimbursement Request is not legible, contains incomplete information, or lacks required signatures and / or supporting documentation, it will be returned unpaid.
- 5) The Police Department / City must submit a corrected Cost Reimbursement Requests and / or pending documentation no later than following month's deadline.
- 6) For any budget category expenditure being submitted for reimbursement, a copy of the Police Department's / City's written policies on overtime, travel and per diem, mileage, procurement procedures and physical inventory policy should be submitted with the first Cost Reimbursement Requests.
- 7) Hidalgo County reserves the right to request additional information and documentation on expenditures and procedures to verify whether a cost is allowable and to satisfy audit requirements.
- 8) The Police Department / City must have all expenses / equipment ordered by February 1, 2012. The last day for submission of any Cost Reimbursement Requests is March 31, 2012.

HIDALGO COUNTY
Operation Stonegarden FY 09
(Name of Police Dept)
Cost Reimbursement Request

I. Operational Overtime

	Job Title/Name	Salary Hourly Rate at 100%	Hours of overtime	Overtime Rate	Total Overtime Charged	Total Fringe Benefit	\$ Requested
1	Deputy/ Joe Bob	\$19.05	2	\$28.57	\$57.14	\$0.00	\$57.14
2		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
3		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
4		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
5		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
6		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
7		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
8		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
9		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
10		\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL SALARIES							\$57.14

II. Travel and Per Diem

	Job Title/Name	Total Travel Cost and event	
1	Deputy/ Joe Bob	100.00 to assiting County XX	\$100.00
2		(example only)	\$0.00
3			\$0.00
4			\$0.00
5			\$0.00
6			\$0.00
7			\$0.00
8			\$0.00
9			\$0.00
10			\$0.00
TOTAL TRAVEL			\$100.00

III Vehicle/Equipment Rentals

1	ABCDEFG	\$25.00
2		\$0.00
3		\$0.00
4		\$0.00
5		\$0.00
6		\$0.00
7		\$0.00
8		\$0.00
9		\$0.00
10		\$0.00
TOTAL VEHICLE/EQUIPMENT RENTALS		\$25.00

IV Vehicle/Equipment Maintenance

1	ABCDEFG	\$25.00
2		\$0.00
3		\$0.00
4		\$0.00
5		\$0.00
6		\$0.00
7		\$0.00
8		\$0.00
9		\$0.00
10		\$0.00
TOTAL VEHICLE/EQUIPMENT MAINTENANCE		\$25.00

HIDALGO COUNTY
Operation Stonegarden FY 09
(Name of Police Dept)
Cost Reimbursement Request

V Mileage

Vehicle number plus number of miles @ what rate

1	ABC 123	55 miles @ .20 (example only)	\$11.00
2			\$0.00
3			\$0.00
4			\$0.00
5			\$0.00
6			\$0.00
7			\$0.00
8			\$0.00
9			\$0.00
10			\$0.00

TOTAL MILEAGE **\$11.00**

VI Fuel Cost

Vehicle Number, amount of fuel @ what rate

1	ABC 123	50 gal @ 1.49 (example only)	\$74.50
2			\$0.00
3			\$0.00
4			\$0.00
5			\$0.00
6			\$0.00
7			\$0.00
8			\$0.00
9			\$0.00
10			\$0.00

TOTAL FUEL COST **\$74.50**

VII Equipment

Item Description

1		\$0.00
2		\$0.00
3		\$0.00
4		\$0.00
5		\$0.00
6		\$0.00
7		\$0.00
8		\$0.00
9		\$0.00
10		\$0.00

TOTAL EQUIPMENT **\$0.00**

TOTAL Operational Overtime	<u>\$57.14</u>
TOTAL Travel and Per Diem	<u>\$100.00</u>
TOTAL Vehicle/Equipment Rentals	<u>\$25.00</u>
TOTAL Vehicle/Equipment Maintenance	<u>\$25.00</u>
TOTAL Mileage	<u>\$11.00</u>
TOTAL Fuel Cost	<u>\$74.50</u>
TOTAL Equipment	<u>\$0.00</u>

REIMBURSEMENT REQUEST TOTAL **\$292.64**

EXHIBIT "E"

ACTIVITY LOG
CITY OF PENITAS, TEXAS
POLICE DEPARTMENT

HIDALGO COUNTY SHERIFF'S OFFICE

OPERATION STONEGARDEN 2009

GRANT #: 2009-SJ-T90011

ACCT #: (agency's assigned acct #)

DAILY ACTIVITY REPORT

Date: _____

Beginning tour of duty: _____ Ending tour of duty: _____

Starting Mileage: _____ Ending Mileage: _____ Total: _____

Shift: _____ Unit # _____

Calls for Service: _____

Vehicle Stops: _____

Citations Issued: _____

Misdemeanor Arrests: _____

Felony Arrests: _____

Stolen Vehicles: _____

Pursuits: _____

IA turned over to BP: _____

Narcotics Seizures: _____

Non-Drug Seizures: _____

IA Intel Reports: _____

Consent to Search : _____

Cases Investigated: _____

Case Data Entry: _____

Administrative Duties: _____

Deputy (Print) _____ Title: _____ S.O. # _____

Deputy (Sign) _____ Title: _____ S.O. # _____

Supervisor: _____ Title: _____ S.O. # _____

Hidalgo County Sheriff's Office

GRANT # 2009-SJ-T90011

OPERATION STONEGARDEN 2009

ACCT. # (agency's assigned acct #)

(Patrol Deputy, Sgt., Lt., Investigator)

PLEASE PRINT LEGIBLY

Unit #	10-41	START MILEAGE	10-42	END MILEAGE	TOTAL MILEAGE
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1.)

Time AM/PM	Sector	Cit./Warn	V. Color	V. Year	V. Make	V. Model	LP's	LP State
Traffic Violation:								
Location of Stop:								
Consent (Yes / No)		Contraband Found (Y / N), If yes, explain below				Case # or CFS #:		
DRIVER Name: _____ DOB: _____ Arrest (Yes / No) _____								
DL. Info: _____								
Notes/ Passengers: Conducting Enhanced Patrol in Support of Stone Garden:								

2.)

Time AM/PM	Sector	Cit./Warn	V. Color	V. Year	V. Make	V. Model	LP's	LP State
Traffic Violation:								
Location of Stop:								
Consent (Yes / No)		Contraband Found (Y / N), If yes, explain below				Case # or CFS #:		
DRIVER Name: _____ DOB: _____ Arrest (Yes / No) _____								
DL. Info: _____								
Notes/ Passengers: While in support of Stone Garden:								

3.)

Time AM/PM	Sector	Cit./Warn	V. Color	V. Year	V. Make	V. Model	LP's	LP State
Traffic Violation:								
Location of Stop:								
Consent (Yes / No)		Contraband Found (Y / N), If yes, explain below				Case # or CFS #:		
DRIVER Name: _____ DOB: _____ Arrest (Yes / No) _____								
DL. Info: _____								
Notes/ Passengers: While in support of Stone Garden:								

4.)

Time AM/PM	Sector	Cit./Warn	V. Color	V. Year	V. Make	V. Model	LP's	LP State
Traffic Violation:								
Location of Stop:								
Consent (Yes / No)		Contraband Found (Y / N), If yes, explain below				Case # or CFS #:		
DRIVER Name: _____ DOB: _____ Arrest (Yes / No) _____								
DL. Info: _____								
Notes/ Passengers: While in support of Stone Garden:								

Deputy Name: _____ SO#: _____ Date: _____

Supervisor Name: _____ SO# _____ Date: _____