

STATE OF NEW MEXICO

**First Judicial District Attorney**  
Santa Fe, Rio Arriba & Los Alamos Counties

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District Attorney

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August 30, 2022

State of New Mexico Board of Finance  
407 Galisteo Street Ste 166  
Santa Fe, NM 87501

Dear Board of Finance:

I appreciate the consideration for emergency grant funding for the First Judicial District Attorney's Office. In October of 2021, the "RUST" movie production was taking place at the Bonanza Creek Ranch in Santa Fe County. During the filming of this movie, Alec Baldwin shot and killed Halyna Hutchins and injured Joel Souza while rehearsing a scene. Many individuals had handled the gun that ultimately killed Hutchins and injured Souza. Since October of 2022, my office has been waiting for evidence to be examined by the FBI. The results of the investigation have now been returned to my office. Only a few items are outstanding but are expected any day. I am ready to start the decision of what individuals will be criminally charged in this case. If charges are warranted, the FJDA anticipates prosecuting up to four (4) individuals. My expenses for the "RUST" will begin immediately and will be costly.


I have reviewed my current budget, and I do not have the proper funding in my budget to prosecute such a high-profile case. I am requesting emergency grant funding of \$635,500.00. I have laid out in my application my justification for this funding. I need funding for an attorney, investigator, media contact person, paralegal, expert witnesses, and general trial expenses. I will not be able to wait 11 more months to get this funding from the Legislature. I anticipate if emergency grant funding is granted, I will still need to go to the Legislature for a special appropriation depending on the number of trials held. Most defendants get separate jury trials and will not be tried at the same time. Each jury trial will take weeks to a month to complete. Experts will have to testify at these trials. In addition, each defendant will get a preliminary hearing within 60 days of charging to determine if there is probable cause to go to trial. These hearings will take weeks to complete and will happen rather quickly once charges are filed. Experts will additionally need to testify at these hearings.

I greatly appreciate you taking the time to carefully consider my application. I believe the application should address any questions and justifications you may have about why the funding is needed, how much funding is needed, and specific numbers addressing how I came up with the \$635,500 I am requesting. My goal and job are to handle this matter to best of my ability using

every resource possible to obtain justice for the victims and families in this matter. This gap funding will assist my office in a competent and thorough prosecution of those individuals responsible for taking the life of Halyna Hutchins and injuring Joel Souza.

Please reach out to me if you have any additional questions.

Sincerely,



Mary Carmack-Altwies



**NEW MEXICO STATE BOARD OF FINANCE (SBOF) SUBMISSION  
 REQUIREMENT CHECKLIST FOR APPROVAL OF LOANS AND GRANTS  
 TO PUBLIC ENTITIES FROM THE EMERGENCY FUND PURSUANT TO  
 SECTION 6-1-2 NMSA AND EMERGENCY FUNDING POLICY 11-03**

Submitted by: Mary Carmack-Altwhies, First Judicial District Attorney Date: 8/30/2022  
 Public Entity: First Judicial District Attorney Address: 327 Sandoval Street, Santa Fe New Mexico 87501  
 Email Address: mcarmack-altwhies@da.state.nm.us Telephone No.: 505-428-6918  
 Presenter(s): Mary Carmack-Altwhies Title: District Attorney Email: mcarmack-altwhies@da.state.nm.us  
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Brenda Rael Martinez Chief Financial Officer brael@da.state.nm.us

The following checklist is intended to assist applicants in complying with SBOF Emergency Funding Policy 11-03. Click→ Emergency Funding Policy 11-03 for full requirements. The applicant **must** provide with a detailed cover letter one (1) original hard copy to: **Director, State Board of Finance, 181 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501**; and one (1) identical bookmarked PDF file on CD or flash drive delivered with the hard copy or via email to [bof.administrator@state.nm.us](mailto:bof.administrator@state.nm.us), (SBOF Contact: 505-827-4980). Check off items from the list below, complete as applicable and prepare attachments as needed.

- 1. List of all other possible funding sources and austerity measures explored and exhausted: SEE ATTACHMENT
- 2. Nature of emergency, including the governmental services not being delivered and effect of the failure of the service on the public health, safety and welfare of individuals and/or community: SEE ATTACHEMENT
- 3. Explanation of why the situation is an unforeseen circumstance that could not reasonably have been addressed at a past legislative session: SEE ATTACHMENT
- 4. Reason why the emergency cannot reasonably await funding from the next legislative session: SEE ATTACHMENT
- 5. Number of individuals affected and the nature of the effect: SEE ATTACHMENT
- 6. Description of how the public entity responded to the emergency: SEE ATTACHMENT
- 7. Whether the emergency funding is requested as a loan  or a grant
- 8. The amount of emergency funding requested, with priority given to requests that can be addressed without unreasonably restricting the amount of emergency funding available for other potential emergency funding requests that may be made through the remainder of a fiscal year: SEE ATTACHMENT 2
- 9. Whether the public Entity is in compliance with all applicable audit requirements: Yes
- 10. If a loan is requested:
  - The proposed timeline for repayment: \_\_\_\_\_
  - Confirmation that the public entity will pledge and encumber funds for repayment each fiscal year that the loan is outstanding, in accordance with the repayment schedule proposed by the public entity: \_\_\_\_\_
  - Listing of the public entity's existing outstanding debt, including bonds, lease purchase agreements and other loans and the debt service schedule associated with such outstanding debt: \_\_\_\_\_
  - Demonstration of a feasible plan and commitment to repay the loan over the timeline proposed in the public entity's repayment schedule: \_\_\_\_\_
  - Description of the public entity's plan for future financial stability: \_\_\_\_\_
  - When emergency funding is requested in the form of a loan, whether the public entity agrees to pledge its revenues for loan repayment, with priority given to public entities that have taken steps or agree to take steps to pledge revenues for loan repayment: \_\_\_\_\_
- 11. A statement that the public entity will agree to submit completed quarterly reports on SBOF authorized forms.
- 12. Recommendation from the Environment Department and Office of the State Engineer on the current situation, if applicable.
- 13. Resolution of the governing body, if applicable, requesting the emergency loan or grant.

## **ATTACHMENT 1: "RUST" Emergency Grant Funding Request:**

- 1. List all other possible funding sources and austerity measures explored and exhausted:** The First Judicial District Attorney's Office has reviewed our budget including vacancy savings in our general fund. There is no available funding. If the First Judicial District Attorney (FJDA) were to take funding for the "RUST" prosecution out of the general fund, there would not be enough funding to pay our employees, expert witnesses needed for other cases, and general everyday expenses of the office. The agency has two vacant positions that are unfunded, meaning there is currently no money to fill these positions. One position is for an attorney and the other is a special programs position. The FJDA does receive grant monies, but these monies can only be used for the specified purpose of the grant. None of these grants would qualify for use on the RUST prosecution. The FJDA has explored all available funding options. Emergency funding and eventually a special appropriation is the only available funding for the FJDA on the "RUST" prosecution.
- 2. Nature of emergency, including the governmental services not being delivered and effect of the failure of the service on the public health, safety, and welfare of individuals and/or community:** The "RUST" case occurred unexpectedly in October of 2021. This is a high-profile case with competent, well-paid, and experienced defense lawyers. The "RUST" prosecution could potentially be prosecutions from one (1) to four (4) defendants. One of the possible defendants is well-known movie actor Alec Baldwin. This case could require up to 4 separate jury trials. The current FJDA budget cannot cover the cost of this prosecution without depleting their current budget. The current budget of the FJDA's office is needed to prosecute the everyday cases that occur throughout the district. If the current budget is depleted to handle the "RUST" case, other cases within the FJDA's office potentially could not get handled properly. The FJDA would not be able to hire experts and pay our staff. This is extremely dangerous to the community as dangerous criminals could possibly be released or not prosecuted properly or aggressively. In addition, the FJDA is already understaffed and lacks funding resources. To contract with independent experts, an attorney, an investigator, a public information officer, and/or a paralegal would require the FJDA to not fill needed, essential positions to allow for savings for these contracts.
- 3. Explanation of why the situation is an unforeseen circumstance that could not reasonable have been addressed at a past legislative session:** The "RUST" shooting did not occur until October of 2021. The State has been waiting since October 21, 2021, for important labs, phone records, and autopsy results to come back. These results have just been returned within the last few weeks. The State is still waiting for a few additional items which are expected to be delivered any day.
- 4. Reason why the emergency cannot reasonably await funding from the next legislative session:** Because the evidence has just been returned, the State is ready to make charging decisions in the "RUST" case. The State requires an additional, more qualified attorney to assist in the prosecution of this matter, as the other attorneys working the "RUST" prosecution still have additional cases to handle and the elected District Attorney must administratively run the FJDA's office. The FJDA would like to contract with a prosecutor who has 26 years' experience as a prosecutor. Due to the high publicity and media attention of this case, this attorney can devote

her full time and attention to this matter. In addition, a special investigator, a paralegal, a media spokesperson, and numerous experts need to be hired. If these employees are taken from the current staff, the current employees will not be able to do their everyday jobs. Experts in firearms, the handling of firearms on movie sets, and safety protocols on movie sets must be retained immediately. The FJDA does not have the budget to wait until the legislative session to ask for money. In addition, the money for "RUST" would not be appropriated until July 1, 2023, if pursued through the legislative session. The "RUST" case needs to be prosecuted immediately, and the costs to prosecute the case will come immediately. The FJDA may still need to ask for additional funding during the legislative session.

5. **Number of individuals affected and the nature of the event:** If gap funding is denied, the entire community will be affected. The FJDA will not be able to fund the case and will have to use its current budget to pay for the "RUST" prosecution and the individuals/costs needed to prosecute the case. The result will be taking the attorneys, investigators, support staff, etc. from the current district attorney's office staff to help on the "RUST" matter. Monies will have to be moved off lower profile cases to supplement prosecuting the "RUST" case. This could allow repeat and dangerous offenders to be pled out versus pursuing jury trials to save money. This will put dangerous criminals back on the streets and will affect the safety of the entire community. Also, the current District Attorney's Office staff will be overworked which often results in mistakes happening, again affecting the safety of the community.
6. **Description of how the public entity responded to the emergency:** The FJDA has used its current resources to investigate this case. It wasn't until the evidence recently was returned that the FJDA realized that defendants from "RUST" would need to be prosecuted immediately. The FJDA did not want to prematurely ask for funding, not knowing what the results of the evidence would be. It is obvious from all the recent media coverage that most of the "RUST" results from the evidence has been returned. The victims, suspects, and the citizens of New Mexico are waiting for a charging decision from the FJDA. The FJDA is the only entity that is responsible for prosecuting this matter and has primary jurisdiction.
7. **Whether emergency funding is requested as a loan or grant?** Grant
8. **The amount of emergency funding requested, with priority given to requests that can be addressed without unreasonably restricting the amount of emergency funding available for other potential emergency funding requests that may be made through the remainder of a fiscal year:** The FJDA is requesting a total of \$635,500.00 for the "RUST" prosecution. Please see Attachment 2, listing the exact way the proposed grant would be used for the prosecution of "RUST." This attachment includes the costs estimated for the additional employees, experts, and trial expenses expected.
9. **Whether the public Entity is in compliance with all applicable audit requirements:** YES
10. **N/A**
11. **A statement that the public entity will agree to submit quarterly reports to SBOF authorized forms:** The FJDA agrees to submit the required forms quarterly. The "RUST" funding will be kept separate, carefully audited, and only used for the "RUST" prosecution. We acknowledge that any unused grant money would revert to the State General Fund.
12. **N/A**
13. **N/A**

Attachment 2

**Proposed Rust Case Budget**

	Hourly	# of Hours per pay period	Bi-weekly	Bi-weekly	Total
<b>Attorney</b>	100	60	6,000	26	156,000
<b>Investigator</b>	75	50	3,750	26	97,500
<b>Paralegal</b>	50	30	1,500	26	39,000
<b>PIO</b>	75	20	1,500	26	39,000
<b>Expert Witnesses</b>	<i>Total</i> 75,000	<i># of Experts</i> 3			225,000
<b>Trial Prep Materials</b>					79,000
Transcriptions					
District Court Supplemental Questionnaires					
Office Supplies (External drives, paper, diagrams)					
Printing					
Travel / Lodging					
				<b>TOTAL</b>	<b>635,500</b>