OFFICE OF THE COUNTY ATTORNEY

1101 New York Avenue ✣ Alamogordo, New Mexico 88310 ✣ (575) 437-7427

April 10, 2026

Records Custodian
New Mexico Department of Justice
408 Galisteo Street, Villagra Building
Santa Fe, New Mexico 87501
IPRA@nmdoj.gov
Fax: (505) 318-1050

Re: Inspection of Public Records Act Request — Otero County, New Mexico

Dear Records Custodian:

Pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 through 14-2-12 (as amended) ("IPRA"), Otero County, acting through its County Attorney, hereby requests inspection and copies of the public records described below, which are in the possession, custody, or control of the New Mexico Department of Justice ("NMDOJ"). Otero County is a governmental entity and, accordingly, no inspection fee applies pursuant to NMSA 1978, § 14-2-9(C).

As required by NMSA 1978, § 14-2-8, NMDOJ must permit inspection of responsive records or provide a written response explaining any denial within fifteen (15) business days of receipt of this request. The statutory deadline for response is April 29, 2026. If NMDOJ determines that any responsive record is exempt from disclosure, NMDOJ must provide a written statement of the specific statutory authority for each claimed exemption and must provide a privilege log identifying each withheld document with sufficient particularity to permit assessment of the claimed exemption, including: (a) document type and date; (b) author and all recipients; (c) subject matter described with sufficient specificity to permit evaluation of the claimed exemption; and (d) the specific statutory provision claimed as the basis for each exemption. See NMSA 1978, § 14-2-12.

Otero County requests that all responsive records be produced in their native electronic format, including all metadata. Where records are emails or other electronic communications, Otero County requests production in a format that preserves the original timestamp, sender, recipient, and subject line information. Otero County requests that NMDOJ produce records on a rolling basis as they are identified rather than waiting until review of all requests is complete. If NMDOJ contends that any portion of

this request is overbroad or unclear, Otero County requests prompt contact at [redacted] so that the request may be clarified before the response deadline.

DEFINITIONS

The following definitions apply to all requests in this letter:

"Records". all documents, communications, and other recorded information within the meaning of NMSA 1978, § 14-2-6(G), regardless of physical form or format, including without limitation: email, text messages, instant messages, messages transmitted through any messaging platform, voicemail, recorded telephone calls, calendar entries, meeting notes, handwritten notes, memoranda, legal opinions, drafts, presentations, and any other documentary material, whether stored on government-issued or personal devices, to the extent the record concerns official NMDOJ business.

"NMDOJ". the New Mexico Department of Justice and all of its bureaus, divisions, and units, including without limitation the Government Counsel and Accountability Bureau, the former Open Government Division, and the Office of the Attorney General, and all attorneys, staff, and employees acting in an official capacity.

"IGSA". any Intergovernmental Service Agreement between a New Mexico county or municipality and any agency of the United States government for the detention or housing of federal detainees or prisoners, including without limitation any such agreement with the United States Department of Homeland Security or Immigration and Customs Enforcement.

"OCPC". the Otero County Processing Center located at 26 McGregor Range Road, Chaparral, New Mexico.

"OMM Agreement". the Operations, Management and Maintenance Agreement between Otero County and Management & Training Corporation dated February 2024.

"JPAA". the Joint Powers Agreements Act, NMSA 1978, §§ 11-1-1 through 11-1-7.

RECORDS REQUESTED

Request No. 1: *Intergovernmental Service Agreements — New Mexico Counties and Municipalities*

All Records from January 1, 2008 through the date of this request generated, received, or maintained by NMDOJ relating to any IGSA between any New Mexico county or municipality and any agency of the United States government, including without limitation:

- All legal opinions, memoranda, or advisory letters addressing whether a county has authority to enter into an IGSA under NMSA 1978, § 33-3-16 or any other provision of New Mexico law;
- All communications with any New Mexico county or municipality regarding the legal basis for, or validity of, any IGSA;
- All Records reflecting any instance in which NMDOJ raised, considered, or declined to raise an objection to a county or municipality entering into or renewing an IGSA;
- All Records reflecting NMDOJ review of any IGSA under the JPAA, NMSA 1978, § 33-3-27, or any other statutory authority; and
- All Records reflecting any NMDOJ determination that an IGSA is or is not a "joint powers agreement" within the meaning of NMSA 1978, § 11-1-3.

Request No. 2: ***Section 33-3-27 Private Jail Contractor Approvals — JPAA Intersection***

All Records from January 1, 2008 through the date of this request reflecting any instance in which NMDOJ, in connection with its review of a county contract under NMSA 1978, §§ 33-3-26 through 33-3-27:

- Required JPAA approval as a condition of or in connection with § 33-3-27 approval;
- Raised, considered, or declined to raise a JPAA objection in connection with any § 33-3-27 approval; or
- Issued any legal guidance, opinion, or internal memorandum addressing whether a § 33-3-27 county-contractor agreement also requires approval under the JPAA.

Request No. 3: ***Otero County — 2024 OMM Agreement Review and Approval***

All Records from January 1, 2023 through the date of this request relating to NMDOJ review, analysis, or approval of the OMM Agreement, including without limitation:

- All internal NMDOJ communications, legal memoranda, and email chains regarding the OMM Agreement, including any analysis of whether the OMM Agreement or the underlying IGSA required approval under the JPAA;
- All communications between NMDOJ and Otero County, the New Mexico Department of Finance and Administration ("DFA"), the New Mexico General Services Department ("GSD"), or Management & Training Corporation ("MTC") regarding the OMM Agreement;
- All drafts of, or correspondence regarding, the OMM Agreement reviewed by NMDOJ before execution;
- All Records related to the approval signatures of IRW (February 9, 2024) and IRW (February 14, 2024), including any legal review conducted before those signatures were affixed; and

- All Records reflecting whether any NMDOJ attorney raised, considered, or declined to raise any objection to the IGSA-backed structure of the OMM Agreement before NMDOJ approval was granted.

Request No. 4: ***Otero County — September 2025 Amendment Denial***

All Records from June 1, 2025 through December 31, 2025 relating to NMDOJ review, analysis, or denial of the proposed amendment to the OMM Agreement submitted by Otero County in or around August 2025, including without limitation:

- All internal NMDOJ communications and legal memoranda regarding the proposed amendment;
- All Records reflecting the legal basis for the September 15, 2025 denial, including any analysis of the IGSA structure underlying the OMM Agreement;
- All communications between NMDOJ and Otero County, DFA, GSD, or MTC regarding the proposed amendment; and
- All Records reflecting whether any NMDOJ attorney raised the JPAA in connection with the proposed amendment or the underlying OMM Agreement at any point in 2025.

Request No. 5: ***Origin and Development of the JPAA Theory — March 2026***

All Records from March 1, 2026 through the date of this request reflecting the origin, development, or first articulation of any NMDOJ legal theory that an IGSA between a New Mexico county and ICE requires approval under the JPAA or by DFA, including without limitation:

- All internal NMDOJ communications, email chains, text messages, and legal memoranda in which the JPAA theory was first raised, discussed, or developed;
- All Records reflecting when the JPAA theory was first raised internally at NMDOJ and who first raised it;
- All communications between NMDOJ and any other state agency, the Office of the Governor, or any member of the New Mexico Legislature regarding the JPAA theory; and
- All Records reflecting any relationship between the development of the JPAA theory and the ratification meeting held by the Otero County Board of County Commissioners on March 25, 2026.

This request encompasses all electronic communications, including email, text messages, instant messages, and any other electronic medium, whether transmitted or stored on government-issued or personal devices, to the extent the communication concerned official NMDOJ business.

Request No. 6: ***Communications with the Governor's Office Regarding OCPC, IGSA, and HB9***

All Records from January 1, 2026 through the date of this request reflecting communications between NMDOJ and the Office of the Governor of New Mexico,

including the Governor's Chief General Counsel, Deputy General Counsel, and any other staff of the Governor's office, regarding any of the following:

- House Bill 9 (the Immigrant Safety Act, Laws 2026) and its application to or effect on Otero County or OCPC;
- The IGSA between Otero County and ICE (Contract No. 70CDCR26DIG000010);
- The timing, filing, or strategic objectives of the Emergency Verified Petition for Writ of Mandamus filed in Case No. S-1-SC-41362; and
- Any coordination between NMDOJ and the Governor's office regarding enforcement action against Otero County before or after March 20, 2026.

Request No. 7: ***Communications with the Legislature Regarding OCPC, IGSA, and HB9***

All Records from January 1, 2026 through the date of this request reflecting communications between NMDOJ and any member of the New Mexico Legislature, legislative staff, or legislative committee regarding:

- House Bill 9 and its application to or effect on Otero County or OCPC;
- The IGSA between Otero County and ICE;
- The legal basis for, timing of, or strategy behind the mandamus petition filed in Case No. S-1-SC-41362; and
- Any communications with HB9's sponsors, co-sponsors, or legislative supporters regarding enforcement action against Otero County or the mandamus proceeding.

Request No. 8: ***Open Meetings Act — Emergency Meeting Complaints, Notifications, and Enforcement***

All Records from January 1, 2019 through the date of this request maintained by NMDOJ's Government Counsel and Accountability Bureau, its predecessor the Open Government Division, or any other NMDOJ unit with responsibility for Open Meetings Act compliance, relating to emergency meetings held or purportedly held by any New Mexico public body pursuant to NMSA 1978, § 10-15-1(C), including without limitation:

- All complaints received by NMDOJ alleging that a public body improperly invoked the emergency meeting exception under § 10-15-1(C);
- All notifications received by NMDOJ from any public body providing notice of an emergency meeting held under § 10-15-1(C), whether provided before or after the meeting, including without limitation any notification received from Otero County relating to the emergency meeting held on June 17, 2022;
- All formal compliance letters or notices of violation issued by NMDOJ to any public body arising from an emergency meeting;
- All press releases, public statements, or media communications issued by NMDOJ in connection with any OMA compliance matter involving an emergency meeting;

- All Records reflecting NMDOJ's decision to take formal enforcement action or to decline formal enforcement action in response to any complaint or notification regarding an emergency meeting, including without limitation any records reflecting the reasons for such decisions;
- All Records reflecting any criteria, policies, internal guidance, or protocols used by NMDOJ to determine whether to issue a formal compliance letter, issue a public press release, or take no formal action in response to an emergency meeting complaint or notification;
- All Records of any communications with [redacted] former Director of the Open Government Division, or any other NMDOJ official, regarding any emergency meeting notification received by NMDOJ in 2022 or 2023; and
- All Records relating to the emergency meeting held by the Otero County Board of County Commissioners on June 17, 2022, including any notification received by NMDOJ, any internal assessment of that notification, and any NMDOJ response or non-response.

Request No. 9: ***DFA 2007 IGSA Memorandum and Related Guidance***

All Records in the possession of NMDOJ relating to the Department of Finance and Administration's 2007 memorandum titled "Limited Use of Joint Powers Agreements," which instructs state agencies not to submit intergovernmental services agreements as joint powers agreements, including without limitation:

- Any NMDOJ communications with DFA regarding the 2007 memorandum or its application;
- Any NMDOJ legal opinions, internal memoranda, or guidance addressing the distinction between intergovernmental services agreements and joint powers agreements as described in the 2007 memorandum; and
- Any Records reflecting whether NMDOJ has applied, declined to apply, or taken any position inconsistent with the 2007 DFA memorandum in connection with any county IGSA, including without limitation the IGSA between Otero County and ICE.

Request No. 10: ***Attorney General Opinions and Legal Guidance on County Authority Under NMSA § 33-3-16***

All Attorney General opinions, informal opinions, advisory letters, legal memoranda, and internal legal guidance generated or maintained by NMDOJ from January 1, 1995 through the date of this request addressing:

- County authority to receive, house, or detain federal prisoners or detainees under NMSA 1978, § 33-3-16;
- Whether an ICE administrative warrant, civil immigration detainer, or Notice to Appear constitutes "legal process issued by or under the authority of the United States" within the meaning of § 33-3-16;

- Any legal analysis distinguishing between criminal federal prisoners and civil federal immigration detainees for purposes of county jail authority under Chapter 33, Article 3 of the New Mexico Statutes Annotated.

The County notes that it is aware of Attorney General opinions issued in 1930, 1957, and 1994 addressing related issues and specifically requests any opinions or guidance issued after 1994 that address the authority of counties to house federal civil immigration detainees.

Request No. 11: ***Communications with Federal Agencies Regarding OCPC and the Mandamus Petition***

All Records from January 1, 2026 through the date of this request reflecting communications between NMDOJ and any agency of the United States government, including ICE, the United States Department of Homeland Security, the United States Department of Justice, or any United States Attorney's office, regarding:

- The IGSA between Otero County and ICE (Contract No. 70CDCR26DIG000010);
- House Bill 9 and its effect on federal detention operations in New Mexico;
- The mandamus petition filed in Case No. S-1-SC-41362;
- Whether, and by whom, notice of the mandamus petition was provided to any officer or agency of the United States, including ICE Contracting Officer IRW IRW or any other federal contracting or legal official, before or after the petition was filed; and
- Any federal agency response, position, or objection to the mandamus proceeding or to HB9 communicated to NMDOJ at any time.

Request No. 12: ***Communications Regarding Otero County Revenue Bonds and Credit Ratings***

All Records from January 1, 2026 through the date of this request reflecting communications between NMDOJ and any of the following parties regarding the Otero County Jail Project Revenue Bonds, Series 2007, or the financial impact of voiding the IGSA or enforcing HB9:

- S&P Global Ratings, Moody's Investors Service, or any other credit rating agency;
- U.S. Bank Trust Company, National Association, as Trustee for the Series 2007 bonds;
- Any bondholder, bond counsel, or financial institution with a financial interest in the Series 2007 bonds; and
- The New Mexico State Board of Finance or the New Mexico Finance Authority.

Please confirm receipt of this request by email to [redacted] at your earliest convenience. If NMDOJ has questions regarding the scope or subject matter of any request, the County Attorney is available to confer promptly by telephone.

Respectfully submitted,

[redacted]
[redacted]
County Attorney
Otero County, New Mexico
1101 New York Avenue, Room 203
Alamogordo, New Mexico 88310
(575) 437-7427
[redacted]

Note: This request is submitted on behalf of Otero County in connection with pending litigation, State of New Mexico ex rel. Raul Torrez v. Board of County Commissioners for Otero County, No. S-1-SC-41362 (N.M. Supreme Court). Records produced in response to this request may be used in that proceeding and in related state and federal litigation.