

# ARTICLE 3A

## Accountability in Government

### 6-3A-1. Short title.

Chapter 6, Article 3A NMSA 1978 may be cited as the "Accountability in Government Act".

**History:** Laws 1999, ch. 5, § 1 and 1999, ch. 15, § 1; 2019, ch. 23, § 1.

### ANNOTATIONS

**The 2019 amendment**, effective June 14, 2019 changed "Sections 1 through 8 of this act" to "Chapter 6, Article 3A NMSA 1978".

### 6-3A-2. Findings and purpose.

A. The legislature finds that agencies should:

(1) be granted sufficient statutory authority and flexibility to use their resources in the best possible way in order to better serve the citizens of New Mexico through the efficient delivery of services and products and the effective administration of governmental programs;

(2) be held accountable for the services and products they deliver in accordance with clearly defined missions, goals and objectives;

(3) develop performance measures for evaluating performance and assessing progress in achieving goals and objectives, and those measures should be integrated into the planning and budgeting process and maintained on an ongoing basis;

(4) have incentives to deliver services and products in the most efficient and effective manner and, if appropriate, recommend the restructuring of ineffective programs or the elimination of unnecessary programs;

(5) have their performance in achieving desired outputs and outcomes and in efficiently operating programs measured and evaluated in an effort to improve program coordination, eliminate duplicate programs or activities and provide better information to the governor, the legislature and the public; and

(6) strive to keep the citizens of this state informed of the public benefits derived from the delivery of agency services and products and of the progress agencies are making with regard to improving performance.

B. The purpose of the Accountability in Government Act is to provide for more cost-effective and responsive government services by using the state budget process and defined outputs, outcomes and performance measures to annually evaluate the performance of state government programs.

**History:** Laws 1999, ch. 5, § 2; 1999, ch. 15, § 2; 2004, ch. 39, § 2.

## ANNOTATIONS

The 2004 amendment, effective May 19, 2004, reenacted this section without amendments.

### 6-3A-3. Definitions.

As used in the Accountability in Government Act:

A. "agency" means a branch, department, institution, board, bureau, commission, district or committee of the state;

B. "approved program" means a program included in an approved list of programs issued by the division pursuant to Section 6-3A-4 NMSA 1978;

C. "baseline data" means the current level of a program's performance measures established pursuant to guidelines established by the division in consultation with the committee;

D. "committee" means the legislative finance committee;

E. "cost beneficial" means that the cost savings and benefits realized over a reasonable period of time are greater than the costs of implementation;

F. "division" means the state budget division of the department of finance and administration;

G. "evidence-based" means that a program or practice:

(1) incorporates methods demonstrated to be effective for the intended population through scientifically based research, including statistically controlled evaluations or randomized trials;

(2) can be implemented with a set of procedures to allow successful replication in New Mexico; and

(3) when possible, has been determined to be cost beneficial;

H. "outcome" means the measurement of the actual impact or public benefit of a program;

I. "output" means the measure of the volume of work completed or the level of actual services or products delivered by a program;

J. "performance-based program budget" means a budget that identifies a total allowed expenditure for a program and includes performance measures, performance standards and program evaluations;

K. "performance measure" means a quantitative or qualitative indicator used to assess the output or outcome of an approved program;

L. "performance target" means the expected level of performance of a program's performance measures;

M. "program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives based on legislative authorization;

N. "promising" means that a program or practice, based on statistical analyses or preliminary research, presents potential for becoming research-based or evidence-based

O. "research-based" means that a program or practice has some research demonstrating effectiveness, but does not yet meet the standard of evidence-based; and

P. "sub-program" means a set of discrete uniquely identifiable activities undertaken in accordance with a plan of action organized to realize identifiable goals within an approved program.

**History:** Laws 1999, ch. 5, § 3; 1999, ch. 15, § 3; 2004, ch. 39, § 3; 2019, ch. 23, § 2.

### ANNOTATIONS

**The 2019 amendment**, effective June 14, 2019, defined "cost beneficial," "evidence-based," "promising," "research-based," and "sub-program" as used in the Accountability in Government Act; added a new Subsection E and redesignated former Subsection E as Subsection F; added a new Subsection G and redesignated former Subsections F through K as Subsections H through M, respectively; and added new Subsections N through P.

**The 2004 amendment**, effective May 19, 2004, added new Subsection G, redesignated former Subsections G and H as Subsections H and I, deleted former Subsection I, added Subsection J and redesignated former Subsection J as Subsection K.

### 6-3A-4. Program identification.

A. Prior to July 15 of each year, each agency shall submit to the division and the committee proposed changes to its current program structure. The division, in consultation with the committee and the agency, shall review the requested changes, make any necessary revisions and issue approval or disapproval within thirty days of receipt. The division shall send a copy of its approval or disapproval to the committee.

B. The program list submitted by the agency shall be accompanied by:

- (1) the constitutional or statutory direction and authority for each program;
- (2) identification of the users of each program;
- (3) the purpose of each program or the benefit derived by the users of the program; and
- (4) other financial information as required by the division in consultation with the committee.

**History:** Laws 1999, ch. 5, § 4; 1999, ch. 15, § 4; 2004, ch. 39, § 4.

### ANNOTATIONS

**The 2004 amendment**, effective May 19, 2004, rewrote Subsection A to change May 1 to July 15, deleted "that is required to submit a performance-based budget request in the subsequent fiscal year", added "and the committee" after "the division", added "proposed changes to its current program structure" and changed "the approved list" to "its approval or disapproval".

### **6-3A-5. Performance measures.**

A. Prior to June 15 of each year, the division, in consultation with the committee, shall develop instructions for the development of performance measures for evaluating approved programs.

B. Prior to July 15 of each year, each agency shall submit to the division and the committee proposed changes in its performance measures. The agency shall identify the outputs produced by each program, the outcomes resulting from each program and baseline data associated with each performance measure. The division, in consultation with the committee and the agency, shall review the proposed changes, make necessary revisions and issue its approval or disapproval within thirty days of receipt. The division shall send a copy of its approval or disapproval to the committee.

**History:** [Laws 1999, ch. 5, § 5](#); [1999, ch. 15, § 5](#); [2004, ch. 39, § 5](#).

#### **ANNOTATIONS**

**The 2004 amendment**, effective June 19, 2004, in Subsection A, changed "June 1" to "July 15"; in Subsection B, changed "July 1" to "July 15", deleted "that is required to submit a performance-based budget request in the subsequent fiscal year", added "and the committee" after "the division", added "proposed changes to its current program structure", and changed "the approved list" to "its approval or disapproval".

### **6-3A-6. Schedule for submission of performance-based program budget requests.**

No later than September 1 of each year, agencies shall submit performance-based program budget requests for the subsequent fiscal year to the division and to the committee.

**History:** [Laws 1999, ch. 5, § 6](#); [1999, ch. 15, § 6](#); [2004, ch. 39, § 6](#).

#### **ANNOTATIONS**

**The 2004 amendment**, effective May 19, 2004, deleted the first sentence of Subsection A, deleted obsolete language in Subsection A and deleted Subsection B.

### **6-3A-7. Performance-based program budget requests.**

A. The division, in consultation with the committee, shall develop instructions for those agencies required to submit performance-based program budget requests. The instructions shall be sent to the agencies on or before June 15 of each year and shall be in addition to any other forms required by Section 6-3-18 NMSA 1978. The instructions shall require that performance-based program budget requests contain the following:

- (1) a summary of each approved program, including a justification for the program;
- (2) for each approved program, an evaluation of the agency's progress in meeting the performance targets. The evaluation shall be developed as prescribed in the budget instructions;
- (3) for each approved program, the outputs, outcomes, baseline data, performance measures and historic and proposed performance targets;
- (4) if a performance audit has been conducted on an approved program during either the present or any of the immediately preceding two fiscal years, any responses that the agency may have to the audit and any actions that the agency has taken as a result of the audit;
- (5) the results of the program inventory pursuant to Section 5 of this 2019 act and a summary of how the agency has prioritized evidence-based, research-based or promising sub-programs within its performance-based program budget request; and
- (6) any other information that the division believes may be useful to the division or the legislature in developing a budget for the agency.

B. On or before September 1 of each year, each agency shall submit a performance-based program budget request to the division and the committee in the form and manner prescribed in the budget instructions. Budget requests submitted pursuant to this section shall be in lieu of those required by Section 6-3-19 NMSA 1978.

**History:** Laws 1999, ch. 5, § 7; 1999, ch. 15, § 7; 2004, ch. 39, § 7; 2019, ch. 23, § 3.

## ANNOTATIONS

**The 2019 amendment**, effective June 14, 2019, required that performance-based program budget requests contain the results of the program inventory and a summary of how the agency has prioritized evidence-based, research-based, or promising sub-programs within its performance-based program budget request; and added a new Paragraph A(5) and redesignated former Paragraph A(5) as Paragraph A(6).

**The 2004 amendment**, effective May 19, 2004, amended Subsection A to change July 1 to June 15 and to change in Paragraph (3) "standards" to "targets" and amended Subsection B to change "required to" to "shall" and to delete "shall submit the request".

## 6-3A-8. Performance-based program budgets.

A. For each agency, the governor's proposed budget submitted pursuant to Section 6-3-21 NMSA 1978 and the committee's budget recommendation pursuant to Section 2-5-4 NMSA 1978 shall contain:

- (1) a budget recommendation for each approved program;
- (2) a summary, including the outputs and outcomes, of each approved program;
- (3) performance measures and performance targets for each approved program;
- (4) an evaluation of the performance of each approved program;
- (5) the amount of the budget recommendation that is intended for evidence-based, research-based and promising sub-programs; and
- (6) any other criteria deemed relevant by the governor or the committee.

B. For each agency, the governor's proposed budget submitted pursuant to Section 6-3-21 NMSA 1978 and the committee's budget recommendation pursuant to Section 2-5-4 NMSA 1978 may contain recommendations regarding incentives or disincentives for agency performance and implementation of evidence-based, research-based or promising sub-programs. Incentives or disincentives may apply to all or part of an agency and may apply to any or all of an agency's approved programs.

C. Pursuant to Section 6-3-7 NMSA 1978, the division shall prescribe forms and approve operating budgets for agencies funded by performance-based program budgets; however, the division shall not take any action that hinders an agency from operating under a performance-based appropriation or that is otherwise inconsistent with the purposes of the Accountability in Government Act. Notwithstanding the provisions of Sections 6-3-23 through 6-3-25 NMSA 1978, and absent specific authorization in the general appropriation act or other act of the legislature, no funds may be transferred either into or out of a performance-based program budget.

D. Each agency shall develop, in consultation with the division, a plan for monitoring and reviewing the agency's programs to ensure that performance data are maintained and supported by agency records.

**History:** Laws 1999, ch. 5, § 8; 1999, ch. 15, § 8; 2004, ch. 39, § 8; 2019, ch. 23, § 4.

## ANNOTATIONS

**The 2019 amendment**, effective June 14, 2019, provided that for each agency, the governor's proposed budget shall identify the amount of funding that is intended for evidence-based, research-based and promising sub-programs; added new Paragraph A(5) and redesignated former Paragraph A(5) as Paragraph A(6); and in Subsection B, after "agency performance", added "and implementation of evidence-based, research-based or promising sub-programs".

**The 2004 amendment**, effective May 19, 2004, amended Subsection A to delete "required to submit a performance-based program budget request" and to change in Paragraph (3) "standards" to "targets", amended Subsection B to delete "required to submit a performance-based program budget request" and amended Subsection D to delete before "agency" "No later than July 1 of the year in which a state agency begins operating under a performance-based program budget, the" and to insert in its place "Each".

### 6-3A-9. Quarterly reporting.

A. The division, in consultation with the committee, shall select agencies and specify performance measures for those agencies that shall be reported on a quarterly basis.

B. Quarterly reports shall compare actual performance for the report period with targeted performance and shall be filed with the division and committee within thirty days of the end of a reporting period.

**History:** [Laws 2004, ch. 39, § 9.](#)

## ANNOTATIONS

**Effective dates.** — Laws 2004, ch. 39 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective May 19, 2004, 90 days after adjournment of the legislature.

### 6-3A-10. Program inventory.

The division and the committee shall approve a list of programs to inventory on or before June 15 of each year. The division shall send to each agency required to submit a performance-based program budget request a notification identifying the programs that have been selected for the inventory. The notification shall set forth the process for completing and submitting the program inventory and shall direct each agency to:

A. identify each sub-program as evidence-based, research-based, promising or lacking evidence of effectiveness; and

B. compile an inventory that includes for each sub-program:

(1) the goals and objectives of the sub-program;

(2) current and historical budget and spending data;

(3) the target population to be served;

(4) the number of persons served annually;

(5) any outcome data that demonstrate efficiency and effectiveness;

(6) any data demonstrating that the sub-program has proven cost beneficial in New Mexico or that the sub-program is likely to be cost beneficial in New Mexico; and

(7) the results of any evaluations or audits of the sub-program.

**History:** [Laws 2019, ch. 23, § 5.](#)

## ANNOTATIONS

**Effective dates.** — Laws 2019, ch. 23 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after adjournment of the legislature.