



CAPITAL OUTLAY BUREAU

ADMINISTRATION OF CAPITAL APPROPRIATIONS

PRESENTATION TO COUNTIES, MUNICIPALITIES,
TRIBAL GOVERNMENTS, SPECIAL DISTRICTS
AND SENIOR CENTER FACILITIES

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Today's Topics

- Capital Outlay Bureau
 - ✓ What we do & What is capital outlay
- Administrative Reforms
 - ✓ Tableau Dashboard & Capital Outlay Request Form
- Capital Outlay and 2020 Legislative Session
 - ✓ 2020 Capital Appropriations, General Fund & Severance Tax Bonds
 - ✓ SB5 Appropriations
- Capital Outlay Implementation
 - ✓ EO 2013-006, Anti-Donation, Grant Agreement, & Reporting
- Upcoming 2020 Legislative Session
 - ✓ Life, Health & Safety Projects, Limited Funding, Complete ICIP
- CARES Act Funds
- Funding Information

What we do?

The Capital Outlay Bureau (COB) is responsible for:

- Coordinate the funding and administration of capital projects.
- Work closely with executive agencies and Governor to prepare the Executive Capital Budget.
- Oversee the capital budgeting process:
 - The questionnaire process;
 - Identifying local entities;
 - EO Compliance; and
 - Budgeting capital projects.
- Maintain the State Capital Project Monitoring System (CPMS).
- Monitor the expiration dates of all capital appropriations to ensure timely reversions of expired appropriation balances.
- Provide training, assistance and oversight to state and local agencies on the planning, project management and administration of capital project appropriations, including the Infrastructure Capital Improvement Plan (ICIP) for State Agencies.

What is Capital Outlay?

Definitions

- Capital outlay includes but is not limited to:
 - Equipment valued over \$10,000 dollars and a useful life of ten years or more;
 - Major renovations or repairs;
 - Acquisitions of existing assets;
 - Plan and design;
 - New building construction;
 - Non-structural improvements to land (grading, leveling, drainage and landscaping)
 - Construction of roadways, fences, ditches, and sanitary sewers.

Administrative Reforms

Tableau Dashboard

- Online Capital Outlay Dashboard for local capital projects.
 - Accessibility of data to easily obtain capital appropriations and balances by year, county, fiscal agent, and project type
 - Accessibility of data to highlight spend down progress and potential issues
 - Data visualization to drive action by oversight agencies, fiscal agents, and policymakers

<http://nmdfa.state.nm.us/capital-outlay-dashboards.aspx>

Administrative Reforms

Capital Outlay Request Form

- Online Capital Outlay Request Form – DFA, the Governor's Office, Legislative Counsel Service and LFC are continuing to work together to make the capital outlay request online, benefits include:
 - More accessibility and ease of use
 - Data from ICIP can be pulled in, if governmental entity has submitted ICIP
 - Better data collected overall, as fields are required
 - Ability to cross compare and analyze requests for policy priorities, project readiness, legal issues

https://nmlegis.gov/Legislation/BillFinder/Capital_Outlay_Request_Forms

Capital Outlay and 2020 Legislative Session

2020 Legislative Session

- NM was appropriated about \$621 million for state and local capital outlay projects.
- Consists of \$423 million from HB349 (STB, GF and OFS)
- Consists of \$198 million from SB280 (GOB – Aging, Library and Higher Education Institutions)
- HB355 reauthorized 117 appropriations for changes in purpose, changes in agency or extension of time.
- Severance Tax Bonds sold in June and October this year due to revenue shortfall.
- General funds frozen for a short period of time and were not budgeted until July.
- Delays in budgeting appropriations and issuing grant agreements.

Difference Between General Fund and Bonds

	General Fund	Bonds (GOB, STB)
Identify anti-donation	State Agency	State Board of Finance
Resolve anti-donation	State Agency	State Board of Finance
Funding availability	After legislative session	Jun/Dec bond sales
Payments	FIFO	1 st and 15 th of month

Capital Outlay and 2020 Legislative Session

Bonds for Capital Outlay

State Board of Finance (SBOF) Questionnaire

- Statements made on Questionnaires are legal certifications and they must be true and complete.
- Failure to proceed to project completion as certified may result in the SBOF rescinding bonds for projects that are ready to proceed or declining to issue future projects for a local entity.
- The SBOF issues bonds at least 2 times per year, so if the project is not ready, return the questionnaire indicating no proceeds are requested at this time.

Bonds will not be issued for a project if:

- the project recipient does not return a questionnaire to the SBOF
- the project recipient cannot **encumber 5%** of the funds within 6 months of bond issuance or **expend 85%** of the funds within 3 years of bond issuance
- the **funding is not sufficient** to complete the project or a usable phase of the project
- the public body receiving the appropriation will not **own** the site or the asset to be funded
- the project recipient is not compliant with the State Audit Act and Executive Order 2013-006
- the project has unresolved **anti-donation issues** resulting from a private operator not paying fair market value for the capital asset

Capital Outlay and 2020 Legislative Session

2020 Special Session (SB5)

- Listed 70 appropriations that had no activity and were being considered for reversion.
- The list was determined by reviewing data in CPMS as well as removing those projects that were considered life, health and safety.
- Appropriations had 90 days from the bill sign date to encumber 5% of the funds
- If not encumbered within 90 days, funds were reverted back to the general fund.

Capital Outlay Implementation

Inter-governmental Grant Agreement (IGA)

- Before the agency issues a grant agreement, compliance with Executive Order 2013-006 is verified, Anti-Donation Issues are resolved, and the appropriation has been budgeted.
- Scope of Work - use appropriation law language as a guide when determining scope of work, and ensure all appropriation activity is within the limits of authorizing language.
- Notice of Obligation (NOO) Exhibit 2 - agency reviews third party agreement and verifies it falls within authorizing language.
- Report Requirements – local entity updates CPMS by the 30th of every month.
- Request for Reimbursement (RFR) Exhibit 1 – submit for payment of expenditures.
- Special Conditions (Optional Attachment A) – may be required if the entity is not in compliant with EEO2013-006 or if the state agency is required to impose other special conditions.

http://nmdfa.state.nm.us/Capital_Outlay_Bureau.aspx

Capital Outlay Implementation

EO-2013-006

Established on May 2, 2013 to address the following:

- Lack of audits or findings raise concerns about a grantee's ability to be a good steward of capital outlay funds thereby increasing the risk of fraud, waste and abuse.
 - Independent audits provide the best assessment of grantees' accounting methods.
 - Oversight of grantees' accounting methods is needed to safeguard appropriations and assets.

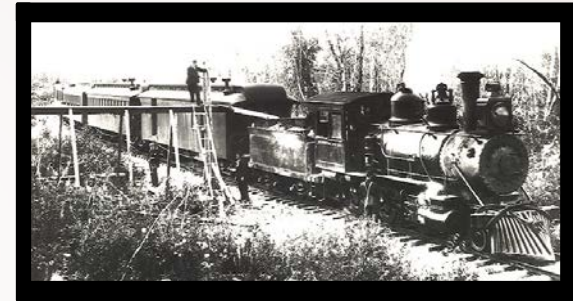
FIN 9.2 Grants Management—Funding Criteria and Oversight Requirements

Established by the Financial Control Division of the Department of Finance and Administration (revised September 30, 2013) to create a policy and criteria for implementation of Executive Order 2013-006

Capital Outlay Implementation

Anti-Donation Clause

- Article IX, Section 14 of NM Constitution
- Started with the Rail Road companies
- The NM Constitution prohibits public entities from donating to private entities
- Private entity can't **own** a publicly-financed capital asset, but they can **operate** them **if** certain conditions are met
- When there is a private operator, the market rental value of the public asset must be **appraised** to determine the fair market value of the asset
- Private operators can pay fair market rent in cash or in services
- If payment is made in services, the tenant has to be selected in compliance with the **Procurement Code** and the lease term has to be limited to the Procurement Code contract term limit
- The lease/operating agreement must have a "menu" of services to be provided and the value that each service will count towards rent. The value of each service must be demonstrated to be at fair market value
- Potential anti-donation is identified and cleared based on funding source
 - Bonds => State Board of Finance
 - General Fund => State Agency
- For general fund appropriations, contact State agency ASAP



Capital Outlay Implementation

Capital Projects Monitoring System (CPMS)

- CPMS is a web-based system used for reporting and monitoring of capital outlay appropriations
- Used by:
 - Department of Finance and Administration (DFA).
 - Legislative Finance Committee (LFC).
 - Press and general public.
- **Local entities begin reporting once a grant agreement has been executed.**
 - Local entity is required to update appropriation information on monthly basis by the 30th of each month (IGA)

Upcoming Legislative Session

Suggested Administrative Reforms

- State Agencies standardize forms and databases to share information. (Grant Agreements & Audit Compliance – UFC forms)
- DFA is working with the Legislative Council Service to adopt a paperless capital project request system to reduce redundancy. (Hope to refine process little by little each year)
- Set a minimum project size (exception for critical health and safety needs) to streamline administration, oversight, and return on taxpayer investment.
- Legislators collaborate to fund larger, regional projects.
- Require local project matching funds (with exceptions for very small entities and critical health and safety projects). Leverage multiple funding sources.

Upcoming Legislative Session

Infrastructure Capital Improvement Plan (ICIP)

- Local infrastructure capital improvement plan (ICIP) establishes planning priorities for anticipated capital projects.
- ICIP helps to plan for future capital improvements.
- ICIPs must be submitted annually by the deadlines set forth by LGD.
 - Covers 5 year period and is developed each year (2022-2026);
 - Policy direction, project timelines, estimated costs, justifications, and the details projects proposed, by year, over the five-year period.
 - May include:
 - Repair/replacement of existing infrastructure
 - Development of new infrastructure
- Implementation plan and an estimate of operating/maintenance expenses to ensure long-term viability each planned project's viability and sustainability; and
- Entities should update their ICIP based on what was previously funded and programmatic changes that impact their capital needs.



CARES Act Funds

The CARES Act Provides Assistance for State, Local, and Tribal Governments

- Provided roughly \$178 million in relief funds to local governments, tribal governments and small businesses
- The CARES Act requires that the payments from the Coronavirus Relief Fund only be used to cover expenses that—
 - 1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - 2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
 - 3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

<http://nmdfa.state.nm.us/cares-act.aspx>

<http://nmdfa.state.nm.us/cares-act-dashboards.aspx>

Funding Information

Catalog of Local Assistance Programs

- Contains programs administered by the State of New Mexico and the United States Federal Government
- Identifies programs to assist municipalities, counties, Indian tribes, pueblos, non-profits, schools districts, special districts, private businesses, and individuals.
- Tool for local entities for matching needs and goals with available resources
- Catalog can be accessed from the DFA-COB website or through the following link:

http://nmdfa.state.nm.us/Capital_Outlay_Bureau.aspx

Capital Outlay Bureau

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Questions...?