



CAPITAL OUTLAY BUREAU

ADMINISTRATION OF CAPITAL APPROPRIATIONS

PRESENTATION TO THE UNIVERSITIES &
HIGHER EDUCATION INSTITUTIONS

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Today's Topics

- Capital Outlay Bureau
 - ✓ What we do & What is capital outlay
- Administrative Reforms
 - ✓ Tableau Dashboard & Capital Outlay Request Forms
- 2021 Legislative Session
 - ✓ 2021 Capital Appropriations, Reauthorizations & Other Signed Legislation
- Capital Outlay Implementation
 - ✓ EO 2013-006, Anti-Donation, Grant Agreement, & Reporting
- Upcoming 2022 Legislative Session
 - ✓ Suggested Reform & ICIP

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:
 - Assists with 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, primarily 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://www.nmdfa.state.nm.us/dfa-dashboards>

Administrative Reforms

Tableau Dashboard (continued)

New Mexico Capital Outlay Dashboard

Appropriations
Project Activity
Grant Agreements
Capital Project Listing
Definitions & Funding Sources
Contact Information

Capital Projects Detail

Appropriated Projects FY 2016 to FY 2019

Select One Filter Option

Project County: (All) **OR** Local Fiscal Agent: (All)

Additional Filter Options

Agency: WNMU

Funding Source: (All)

Reversion Year

(All)

2021

2022

2023

2024

Appropriation Year

(All)

2016

2017

2018

2019

2020

Capital Project Type: (All)

Appropriation Total: \$0 to \$32,895,000

Agency ID	Appropriation Title	Approp YR	Revert YR	Funding	Appropriation	Total Expended	Expended Pct	Total Reverte
A18C5113	WNMU HARLAN HALL REN & INFRA IMPROVE	2018	2023	GOB	\$6,000,000	\$4,601,149	76.7%	\$
A19D3542	WNMU ELECTRONIC DOOR LOCK SYSTEM UPG...	2019	2023	GF	\$1,250,000	\$1,224,289	97.9%	\$
A19D3543	WNMU INFO TECH INFRA IMPROVE	2019	2023	GF	\$400,000	\$201,261	50.3%	\$
A19D3545	WNMU VETERANS CENTER CONSTRUCT	2019	2023	GF	\$50,000	\$33,317	66.6%	\$
A19D3546	WNMU DEMING LEARNING CENTER	2019	2023	GF	\$1,000,000	\$661,213	66.1%	\$
A20E2917	WNMU FELIPE DE ORTEGO Y GASCA CULTRAL ...	2020	2024	STB	\$50,000	\$10,846	21.7%	\$
A20E2918	WNMU PATHWAYS SAFETY IMPROVE	2020	2024	STB	\$390,000	\$40,732	10.4%	\$
A20E2919	WNMU VETERANS' CENTER REN	2020	2024	STB	\$70,000	\$0	0.0%	\$
A20E2920	WNMU LEARNING CENTER CONSTRUCT	2020	2024	STB	\$2,500,000	\$40,430	1.6%	\$

Administrative Reforms

Capital Outlay Request Form

- Online Capital Outlay Request Form – Department of Finance & Administration (DFA), the Governor's Office (GOV), Legislative Counsel Service (LCS) and Legislative Finance Committee (LFC) are continuing to work together to make the capital outlay request online.
- Goals / 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
 - Forms and/or links are typically found on the LCS, GOV and DFA websites

Capital Outlay and 2021 Legislative Session

2021 Legislative Session – HB285

- New Mexico was appropriated about \$512 million for 1,198 state and local capital outlay projects. (HB285) (23 Vetoes and 7 Partial Vetoes)
- 82 projects totaling almost \$50 million allocated for Universities and Higher Education Department projects. (HB285)
- One GF appropriation for SJC will be budgeted through a CAPBUD submitted by HED once the Acodes and class codes are uploaded into SHARE.
- HED Institution appropriations funded through Severance Tax Bonds (STB) will be budgeted through an automated upload by DFA once the bonds are sold.
- University appropriations will be available for draw down once the bonds are sold.

* Over \$3 billion total capital outlay appropriated since 2016.

Capital Outlay and 2021 Legislative Session

Bonds for Capital Outlay – HB285

State Board of Finance (SBOF) Questionnaire

- Statements made on Questionnaires are legal certifications and they must be true and complete.
- Failure to complete the project timely and as certified may result in the SBOF sweeping proceeds for projects that are ready to proceed or not funding future projects.
- The SBOF typically issues bonds about 2 times per year. If the project is not ready, return the questionnaire indicating no proceeds are requested at this time.
- The entity must notify the SBOF if the project changes or faces delays.

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 well-defined 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/manager/user not paying fair market value for the capital asset

Capital Outlay and 2021 Legislative Session

2021 Legislative Session – HB296

- The capital outlay reauthorization bill reauthorized 93 projects:
 - Time extension – Budgets are reduced and re-established immediately following the Governor signing the bill.
 - Change of Purpose and/or Agency – Budgets are reduced immediately following the Governor signing the bill.
 - For general fund projects – Budgets can be re-established at the same time they are reduced with a new class code and budref in SHARE, if allocated to the same agency. Otherwise, if there is a change in agency, operating transfers must take place prior to the new budgets being established.
 - For STB projects – Budgets cannot be re-established until the State Board of Finance has reviewed the new purpose during a future board meeting. Typically occurs prior to the new fiscal year.
- 4 reauthorizations were vetoed and 1 was partially vetoed.
- Universities should seek reauthorization through Legislators for projects funded by Legislators or through DFA/HED for projects funded through the statewide process.

Capital Outlay and 2021 Legislative Session

2021 Legislative Session – HB55

- The bill to allow for the publication of capital outlay allocations on the LCS website.
- Require LCS to publish a searchable list of capital projects that passed the Legislature (including those that are vetoed) and the name of each legislator and the Governor who allocated a portion of the capital outlay appropriation or bond authorization for each project, as well as the amounts of such allocations.
- LCS would publish this list 30 days after adjournment of each legislative session in which a capital projects list is approved by the Legislature.
- The bill would apply to the first session of the 55th Legislature (adjourned March 20, 2021) and subsequent Legislatures.
- The bill contains an emergency clause and would take effect immediately if signed by the Governor.

Capital Outlay and 2021 Legislative Session

2021 Legislative Session – SB377 (Junior Bill)

- Appropriations from legislative cash balances to the legislature for expenditure in fiscal years 2021 and 2022.
- Universities and Higher Education Institutions received 48 appropriations totaling roughly \$5.9m in junior bill appropriations. (SB377)
- Administered by DFA, State Budget Division.
 - Contact Nicole Macias for more information. Nicole.Macias@state.nm.us.

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 and/or audit 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 LCS to continue adopting 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)

- 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 statute or LGD.
 - Covers 5 year period and is developed each year (2023-2027);
 - 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 includes 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.



Capital Outlay Bureau

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Questions...?