

underscored material = new
[bracketed material] = delete

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 493

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE PUBLIC FINANCE
ACCOUNTABILITY ACT; ESTABLISHING FUNDING CRITERIA AND GRANT
MANAGEMENT AND OVERSIGHT REQUIREMENTS; ENUMERATING DUTIES OF
THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Public Finance Accountability Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Public Finance Accountability Act:

A. "annual audit" means the annual audit or
examination of the financial affairs of a grantee by an
independent auditor required by the Audit Act;

B. "department" means the department of finance and
administration;

1 C. "grant" means a non-exchange transaction whereby
2 a state agency makes a capital outlay appropriation or other
3 special purpose appropriation available to a grantee;

4 D. "grant agreement" means a written agreement
5 pursuant to which a state agency grants a capital outlay
6 appropriation or other special purpose appropriation to a
7 grantee;

8 E. "grantee" means an entity to which a state
9 agency grants a capital outlay appropriation or other special
10 purpose appropriation;

11 F. "independent auditor" means a certified public
12 accountant or chartered accountant who has been approved by the
13 state auditor to examine financial records and transactions of
14 a grantee to impartially and objectively determine compliance
15 with generally accepted accounting principles and state laws
16 and rules; and

17 G. "state agency" means any department,
18 institution, board, bureau, commission, district or committee
19 of state government.

20 SECTION 3. [NEW MATERIAL] FUNDING CRITERIA.--

21 A. The department shall establish the following
22 funding criteria for a grantee to be eligible for a capital
23 outlay appropriation or other special purpose appropriation to
24 political subdivisions of the state:

25 (1) a grantee's most recently completed annual

1 audit must be a public record pursuant to Section 12-6-5 NMSA
2 1978;

3 (2) if a grantee's most recently completed
4 annual audit documents material weaknesses or significant
5 deficiencies:

6 (a) the grantee shall prepare an
7 actionable plan to address the material weaknesses and
8 significant deficiencies;

9 (b) the state agency making the grant
10 shall provide support to the grantee to prepare and implement
11 the grantee's plan to adequately address the material
12 weaknesses and deficiencies; or

13 (c) if the grantee's prior year audit
14 findings have repeated material weaknesses and deficiencies for
15 more than two consecutive fiscal years from the fiscal year the
16 grant is being considered, the state agency making the grant
17 shall have determined that another appropriate entity is able
18 and willing to act as fiscal agent for the grant;

19 (3) if the grantee's most recently completed
20 annual audit of public record is not from either of the two
21 immediate past fiscal years or if the opinion of the most
22 recently completed annual audit is qualified, modified,
23 disclaimed or adverse, the state agency making the grant shall
24 have determined that another appropriate entity is able and
25 willing to act as fiscal agent for the grant;

.231860.3

1 (4) in the case of a grantee that is not
2 required to have annual audits conducted pursuant to the Audit
3 Act:

4 (a) the grantee shall have demonstrated
5 to the satisfaction of the state agency making the grant that
6 it has adequate accounting methods and procedures to manage and
7 expend grant funds in accordance with applicable law and
8 account for and safeguard grant funds and assets acquired by
9 grant funds;

10 (b) the state agency shall have
11 determined that it can impose and has the resources to
12 implement special grant conditions that will adequately address
13 any relevant deficiencies in the grantee's accounting methods
14 and procedures; or

15 (c) the state agency shall have
16 determined that another appropriate entity is able and willing
17 to act as fiscal agent for the grant; and

18 (5) the grantee shall be in compliance with
19 any financial reporting requirements, including those
20 enumerated in the Audit Act, and shall have a budget for the
21 current fiscal year approved by any applicable governing body
22 or oversight agency.

23 B. If a grantee is not in agreement with the
24 department's or state agency's decision to require a fiscal
25 agent for a grant, the grantee may file a written appeal with

1 the department or state agency within one week of the
2 department's or state agency's decision to require a fiscal
3 agent; provided that once a written appeal is filed with the
4 department or state agency, the chief financial officer of the
5 department or state agency shall review and discuss the appeal
6 with the grantee and then prepare a written set of findings
7 upholding or overturning the original department or state
8 agency decision to require the grantee to have a fiscal agent.

9 C. The department shall require the funding
10 criteria set forth in Subsection A of this section to be met
11 prior to allowing a state agency to:

12 (1) certify to the state board of finance for
13 the issuance of severance tax or general obligation bonds for a
14 project; or

15 (2) make a grant to a grantee.

16 SECTION 4. [NEW MATERIAL] GRANT MANAGEMENT AND OVERSIGHT
17 REQUIREMENTS.--The department shall establish grant management
18 and oversight requirements that, at a minimum, require state
19 agencies to:

20 A. ensure that sales, leases and licenses of
21 capital assets acquired with capital outlay appropriations and
22 special purpose appropriations granted to a grantee are
23 approved in accordance with applicable law;

24 B. in the event no oversight agency is required to
25 approve of a sale, lease or license of capital assets acquired

.231860.3

1 with capital outlay appropriations and special purpose
2 appropriations granted to a grantee, independently confirm that
3 the disposition of capital assets complies with applicable law
4 and that the grantee is receiving adequate consideration in
5 exchange for the capital assets;

6 C. utilize the appropriate capital outlay grant
7 agreement template developed by the department; and

8 D. conduct field audits of capital outlay projects,
9 on a statistical or stratified basis, in accordance with
10 procedures and policies prescribed by the department.

11 SECTION 5. [NEW MATERIAL] DUTIES OF THE DEPARTMENT.--The
12 department shall:

13 A. prescribe procedures, policies and processing
14 and appeal documents to implement the funding criteria and
15 grant management requirements set forth in Sections 3 and 4 of
16 the Public Finance Accountability Act;

17 B. prescribe one or more capital outlay grant
18 agreement templates for use by state agencies;

19 C. develop criteria for granting requests for
20 deviations from its grant agreement templates and grant
21 management and oversight requirements; and

22 D. monitor and enforce state agencies' compliance
23 with the funding criteria and grant management and oversight
24 requirements of Sections 3 and 4 of the Public Finance
25 Accountability Act.

1 SECTION 6. ~~[NEW MATERIAL]~~ FORCE MAJEURE PROVISION.--

2 A. Upon a showing by a prospective grantee that
3 strict compliance with the Public Finance Accountability Act
4 was impractical or impossible due to a flood, hurricane,
5 tornado, earthquake, other declared natural disaster, armed
6 conflict, terrorist attack, riot, pandemic, epidemic or other
7 force majeure circumstance, the secretary of finance and
8 administration, in consultation with the state auditor, may
9 temporarily waive strict compliance with the requirements of
10 that act.

11 B. Such a waiver shall only be granted upon a
12 determination that adequate alternatives exist to protect
13 against waste, fraud or abuse of public funds.

14 C. The determination that a waiver is warranted
15 shall be documented in writing, specifying the reasons for the
16 waiver and the alternative measures that will be implemented to
17 ensure the protection of public funds.

18 D. The waiver shall be limited in duration and
19 scope to address the specific circumstances necessitating the
20 waiver and shall be subject to periodic review to assess the
21 continued need for such waiver.

22 E. The secretary of finance and administration
23 shall ensure that any waiver granted pursuant to this section
24 is communicated to all relevant state agencies and grantees,
25 along with guidance on the alternative measures to be followed

.231860.3

during the waiver period.

F. The provisions of this section shall not be construed to permit any action that would otherwise violate state law or compromise the integrity of public finance management.

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

- 8 -

underscored material = new
[~~bracketed material~~] = delete