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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. SHORT TITLE.--This act may be cited as the
"Public Finance Accountability Act".

SECTION 2. 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;

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

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

E. "grantee" means an entity to which a state

1 agency grants a capital outlay appropriation or other special
2 purpose appropriation;

3 F. "independent auditor" means a certified public
4 accountant or chartered accountant who has been approved by
5 the state auditor to examine financial records and
6 transactions of a grantee to impartially and objectively
7 determine compliance with generally accepted accounting
8 principles and state laws and rules; and

9 G. "state agency" means any department,
10 institution, board, bureau, commission, district or committee
11 of state government.

12 SECTION 3. FUNDING CRITERIA.--

13 A. The department shall establish the following
14 funding criteria for a grantee to be eligible for a capital
15 outlay appropriation or other special purpose appropriation
16 to political subdivisions of the state:

17 (1) a grantee shall have completed an annual
18 audit for one of the past two fiscal years, and the most
19 recently completed annual audit shall be a public record
20 pursuant to the Audit Act;

21 (2) if a grantee's most recently completed
22 annual audit documents material weaknesses or significant
23 deficiencies:

24 (a) the grantee shall prepare an
25 actionable plan to address the material weaknesses and

1 significant deficiencies;

2 (b) the state agency making the grant
3 shall provide support to the grantee to prepare and implement
4 the grantee's plan to adequately address the material
5 weaknesses and significant deficiencies; or

6 (c) if the grantee's prior year audit
7 findings have repeated material weaknesses and significant
8 deficiencies for more than two consecutive fiscal years from
9 the fiscal year the grant is being considered, the state
10 agency making the grant shall have determined that another
11 appropriate entity is able and willing to act as fiscal agent
12 for the grant;

13 (3) if the grantee's most recently completed
14 annual audit of public record is not from either of the two
15 immediate past fiscal years, the state agency making the
16 grant shall have determined that another appropriate entity
17 is able and willing to act as fiscal agent for the grant;

18 (4) in the case of a grantee that is not
19 required to have annual audits conducted pursuant to the
20 Audit Act:

21 (a) the grantee shall have demonstrated
22 to the satisfaction of the state agency making the grant that
23 it has adequate accounting methods and procedures to manage
24 and expend grant funds in accordance with applicable law and
25 account for and safeguard grant funds and assets acquired by

1 grant funds;

2 (b) if necessary, the state agency
3 shall have determined that it can impose and has the
4 resources to implement special grant conditions that will
5 adequately address any relevant deficiencies in the grantee's
6 accounting methods and procedures; or

7 (c) if necessary, the state agency may
8 have determined that another appropriate entity is able and
9 willing to act as fiscal agent for the grant; and

10 (5) the grantee shall be in compliance with
11 any financial reporting requirements, including those
12 enumerated in the Audit Act, and shall have a budget for the
13 current fiscal year approved by any applicable governing body
14 or oversight agency.

15 B. If a grantee is not in agreement with the
16 department's or state agency's decision to require a fiscal
17 agent for a grant, the grantee may file a written appeal with
18 the department or state agency within one week of the
19 department's or state agency's decision to require a fiscal
20 agent; provided that once a written appeal is filed with the
21 department or state agency, the chief financial officer of
22 the department or state agency shall review and discuss the
23 appeal with the grantee and then prepare a written set of
24 findings upholding or overturning the original department or
25 state agency decision to require the grantee to have a fiscal

1 agent.

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

5 (1) certify to the state board of finance
6 for the issuance of severance tax or general obligation bonds
7 for a project; or

8 (2) make a grant to a grantee.

9 SECTION 4. GRANT MANAGEMENT AND OVERSIGHT

10 REQUIREMENTS.--The department shall establish grant
11 management and oversight requirements that, at a minimum,
12 require state agencies to:

13 A. ensure that sales, leases and licenses of
14 capital assets acquired with capital outlay appropriations
15 and special purpose appropriations granted to a grantee are
16 approved in accordance with applicable law;

17 B. in the event no oversight agency is required to
18 approve of a sale, lease or license of capital assets
19 acquired with capital outlay appropriations and special
20 purpose appropriations granted to a grantee, independently
21 confirm that the disposition of capital assets complies with
22 applicable law and that the grantee is receiving adequate
23 consideration in exchange for the capital assets;

24 C. utilize the appropriate capital outlay grant
25 agreement template developed by the department; and

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

4 **SECTION 5. DUTIES OF THE DEPARTMENT.**--The department
5 shall:

6 A. prescribe procedures, policies and processing
7 and appeal documents to implement the funding criteria and
8 grant management requirements set forth in Sections 3 and 4
9 of the Public Finance Accountability Act;

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

12 C. develop criteria for granting requests for
13 deviations from its grant agreement templates and grant
14 management and oversight requirements; and

15 D. monitor and enforce state agencies' compliance
16 with the funding criteria and grant management and oversight
17 requirements of Sections 3 and 4 of the Public Finance
18 Accountability Act.

19 **SECTION 6. FORCE MAJEURE PROVISION.**--

20 A. Upon a showing by a prospective grantee that
21 strict compliance with the Public Finance Accountability Act
22 was impractical or impossible due to a flood, hurricane,
23 tornado, earthquake, other declared natural disaster, armed
24 conflict, terrorist attack, riot, pandemic, epidemic or other
25 force majeure circumstance, the secretary of finance and

1 administration, in consultation with the state auditor, may
2 temporarily waive strict compliance with the requirements of
3 that act.

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

7 C. The determination that a waiver is warranted
8 shall be documented in writing, specifying the reasons for
9 the waiver and the alternative measures that will be
10 implemented to ensure the protection of public funds.

11 D. The waiver shall be limited in duration and
12 scope to address the specific circumstances necessitating the
13 waiver and shall be subject to periodic review to assess the
14 continued need for such waiver.

15 E. The secretary of finance and administration
16 shall ensure that any waiver granted pursuant to this section
17 is communicated to all relevant state agencies and grantees,
18 along with guidance on the alternative measures to be
19 followed during the waiver period.

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

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