

***NEW MEXICO  
LAND GRANT  
COUNCIL – Report  
to 2018 Land  
Grant Interim  
Committee***



# **New Mexico Land Grant Council Brief to Land Grant Interim Committee June 11, 2018**

## **COUNCIL'S MISSION**

Established by the New Mexico Legislature in 2009 the New Mexico Land Grant Council's first fiscal year of operation was FY 2010. As per §49-11-3, NMSA 1978, the general purposes of the Council are to establish a land grant support program to provide advice and assistance to land grants and to serve as a liaison between land grants and the federal, state and local governments. §49-11-4, NMSA 1978 further enumerates the duties of the Council as follows:

- 1) assist land grants in all areas of land grant fiscal and programmatic management, including planning, economic development and infrastructure development;
- 2) establish cooperative purchasing capabilities for land grants;
- 3) perform special studies and undertake surveys of interest to land grants and report the findings;
- 4) serve as fiscal agent and administrator for federal and state grants-in-aid and other funding for a land grant when necessary;
- 5) facilitate or enter into agreements with state and federal agencies on behalf of land grants;
- 6) enter into contracts to carry out the purposes of the Land Grant Support Act; and
- 7) provide other assistance to land grants.
- 8) facilitate the exchange of experience and advice among land grants;
- 9) serve as a liaison between land grants and federal, state and local agencies;
- 10) promote cooperation between land grants and, by consultation and advice, assist in the coordination of land grant programs;
- 11) provide board development opportunities and technical assistance to the governing boards of land grants;
- 12) provide short- and long-range planning assistance to land grants;
- 13) conduct training sessions for land grants on topics of interest, such as:
  - (a) local, state and national zoning trends and concerns and other land- use issues;
  - (b) state requirements for political subdivisions on such topics as open meetings, public records, procurement, risk management, tort claims and financial accountability;
  - (c) techniques of historical research;
  - (d) grant writing;
  - (e) economic development strategies; and
  - (f) rangeland management and water conservation;
- 14) disseminate information to relevant federal, state and local agencies on land grant issues and activities and, when requested, on the status of individual land grants;
- 15) develop and promote federal legislation for an appropriate congressional response to longstanding community land grant claims in New Mexico; and
- 16) review state and federal policies, plans and legislation affecting land grants in New Mexico.

Also §49-1-23 of the Land Grant General Provisions was revised in 2013 to move the New Mexico Land Grant Registry from the charge of the Secretary of State's office to the Land Grant Council.

## **ACCOMPLISHMENTS**

Since it began operating in FY 2010 the Council's accomplishments include the following:

**Technical Support to Land Grants** – Technical support to land grants has included: providing land grants assistance with budgeting and financial reporting; development and updating of Infrastructure and Capital Improvement Plans; assistance with seeking capital outlay funding; development and revision of bylaws; support running land grant elections; general governance advice and assistance; assistance with federal grant administration; assistance with historical research, genealogical research, and archiving and digitization of historical records; and, general assistance with problem solving. Additionally, to date the Council has helped 4 land grants successfully reorganize their board of trustees these include Tajique, Tierra Amarilla, Santa Bárbara and Santo Tomás Apóstol del Río de Las Trampas.

**Land Grant Support Fund** – Since the establishment of the Land Grant Support fund in 2010 the Council has provided over \$80,000 in direct funding to land grants for small capital purchases and contractual services. This includes funding for: fencing materials, signage, culverts, computers and office equipment, small construction and renovation projects, road construction and maintenance materials, tools and equipment, storage sheds, genealogical research, CPA and legal services. To date 12 different land grants (some with multiple awards in different years) have been award funding from the Council.

**Legal Services for Land Grants** – In FY 2014 the Council began allocating a portion of its budget for direct legal services for land grants. Through a contract with New Mexico Legal Aid, the Council has been able to provide land grants with free legal advice and assistance for a variety of legal matters. These include: property disputes; water rights declarations and negotiations; negotiations with other government entities; recovery of land grant assets; governance advice; development of amicus briefs for important court cases with potential to impact land grants statewide. To date the Council has allocated over \$120,000 for legal services for land grants. The Council has recently begun to work with the UNM Law School's newly created Natural Resources Law Clinic to help provide more legal resources for land grants. Through the clinic law students have been able to work with the Council's Contract attorney, David Benavides, on land grant related legal issues.

In addition, Council staff has served as a Special Master to 4<sup>th</sup> Judicial District the for San Miguel del Bado land grant elections and to the 1<sup>st</sup> Judicial District for the Tierra Amarilla Land Grant elections. Staff has also served as an expert witness in elections cases pertaining to the San Miguel Del Bado Land Grant in the 4<sup>th</sup> Judicial District and the Cebolleta Land Grant in the 7<sup>th</sup> Judicial District.

The Council also worked closely with the Treaty of Guadalupe Hidalgo Division of the Attorney General's Office for the brief period that it was recently funding in FY 2017. Its work with the Division included briefing the Division about land grant related legal issues, providing input to the Division as needed and requesting advice and assistance from the Division as required.

**Trainings, Workshops & Events** – Over the years the Council has provided training workshops and direct training for board of trustees in the following areas: Infrastructure and Capital

Improvement Planning; Open Meetings and Inspection of Public Records Act; Land Grant Elections; Land Grant Statutes Review; Budgets and Financial Reporting Requirements; Legislative Capital Outlay Process; Community and Economic Development; and, Federal and State Conservation programs. In addition, the Council has partnered other entities like the UNM Land Grant Studies Program to provide the United State Forest Service, Bureau of Land Management, and New Mexico Professional Surveyor's Association workshop presentations relating to land grant history, traditional uses and current status. The Council has also been serving as a co-host of the annual Treaty of Guadalupe Hidalgo Commemoration for 10 years.

**Federal Policy Work** – Over the years the Council has been working with the New Mexico Congressional Delegation on federal legislation relating to: traditional use consultation and access on former common lands now under Federal management; the establishment of a federal commission to address longstanding land grant-merced claims; federal compensation for hardships caused by land adjudication required under Treaty of Guadalupe Hidalgo; access to Farm Bill funded programs; and the transfer of land grant-merced cemeteries on Federal Public Land.

In addition, the Council serves as an official Cooperating Agency with both the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) on work on: the Carson, Cibola and Santa Fe National Forest Plan Revision; the BLM Rio Grande del Norte Monument Plan and proposed land exchange with State Land Office.

The Council has an MOU with USFS that designates the Council as a liaison between the Forest Service and individual land grants. As part of this role the Council has worked on issues pertaining to: the disposal of the Piedra Lumbre Visitor's Center; Santa Fe National Forest Easements through the Merced del Pueblo Abiquiú; Proposed Pecos Wilderness expansion affecting Santa Barbara and Santo Tomás Apóstol del Rio de las Trampas Land Grants; cemetery easement for the San Joaquín del Rio de Chama historic cemetery; and traditional uses for Cristóbal de la Serna Land Grant community on recent 5,000 acre Miranda Canyon property acquired by United States Forest Service. The Council also serves as a liaison for the BLM with regard to historic cemeteries in the San Miguel del Bado Land Grant; land disposal in the San Antonio de Las Huertas Land Grant; and a historical site in the Cañón de Carnué Land Grant.

**State Policy Work** – Since its inception the Council has provided input, analysis and testimony on land grant related policy issues before the Land Grant Interim Committee and New Mexico Legislature. This includes: providing input and assistance to the Legislative Council Service during the interim session; serving as an expert witness on legislation during the regular legislative session; and providing land grants around the state with updates about the progress of legislation during the session.

The Council's liaison work at the State level includes: State Game Commission disposal of Laguna del Campo to the Tierra Amarilla Land Grant; Office of the New Mexico Attorney General's involvement in a property dispute involving the Tierra Amarilla Land Grant; New Mexico Taxation and Revenue Department's disposal of abandon properties within the Town of Tomé Land Grant.

**Land Grant Registry** – Since 2013 the Council has been in charge of maintaining the New Mexico Land Grant Registry. Records pertaining to the Registry while it was under the control of the Secretary of State’s Office are housed at the State Records and Archives Center in Santa Fe. The Council maintains an electronic copy of those records. All records received since the Council took over the registry are housed at the Council’s office at the University of New Mexico.

**Publications** – Since its establishment the Council has produced numerous publications, which it provides to land grants, state and federal agencies and the general public. These include: Land Grant Laws and Statutes 2010, 2011, 2015; Land Grant Governance Guidebook (2010, 2011); Land Grant-Merced Guide to Water Rights and Adverse Possession (2017); Compilation of the General Accounting Office Reports GAO-01-951 and GAO-04-59; Report to the Attorney General in Response to GAO Report 04-59; Translated volumes of Books IV and VI of the *Recopilación de Las Leyes de Los Reinos de Las Indias*; New Mexico Legislative Report on State Lands within New Mexico Community Land Grants.

In addition to the above mentioned materials the Council also funded the development of a site development plan for the Piedra Lumbre Visitor’s Center completed by the Resource Center for Raza Planning of the UNM School of Architecture and Planning.

**Other assistance** – The Council also provides assistance to other state and federal agencies and individual members of the public when appropriate. For example, the Council provides contact information or other general information about land grants and land grant statutes to agencies and individuals when requested.

## **AREAS OF LAND GRANT NEED**

**Legal Services** – Although the Council has been providing legal services to land grants since FY 2014, the amount of services is limited based on budgetary constraints. There is a long wait list of land grants needing legal services in the areas of property dispute and encroachment, water rights, contract review and preparation and negotiations and disputes with other government and private entities. In addition to legal issues at the individual land grant level, there are also higher-level issues that have the potential to affect numerous land grants. For example, issues relating to land grant elections at the state level and unresolved legal claims at the federal level such as the *United States v. Sandoval* decision. Although the Council, through its work with New Mexico Legal Aid, has been able to enlist the services of law students in the Natural Resources Law Clinic at the UNM Law School, the most effect way to expand legal services to land grants would be to increase the Council budget to allow for hiring a full-time entry level attorney to work on land grant issues. Being that there are a limited number of practicing attorney versed in the complexity of land and water issues in New Mexico the Council would want to continue its contract with New Mexico Legal Aid so that David Benavides could serve as a mentor the Council's entry level attorney. The Council believes that a full-time attorney coupled with Mr. Benavides serving as a mentor and the continued partnership with UNM Law School's Natural Resources Law Clinic would provide an effective model for addressing legal services for land grants. Additionally, if the past legislation relating to providing graduating law school students an opportunity to serve land grants, acequias and colonies as a means of forgiving some of their student debt is revived, having an attorney on board would allow the Council to serve as an eligible agency for those students to work.

**Surveying** – One of the biggest problems facing land grants when it comes management and protection of the common lands is encroachment of there common lands. Since the original patent boundary surveys were completed of the exterior boundaries of land grants is the late 19<sup>th</sup> century, few land grants have had the means to conduct boundary surveys for lands within the exterior boundaries. As a result, most surveys within the exterior boundaries have been conducted by private individuals, often times to the detriment of the common lands. The cost of land surveys is still a factor prohibiting most land grants from being able to conduct surveys on the common lands they still possess. The Council believes best solution for addressing this issue would to be hire a surveyor that is on staff for the Council that can work with individual land grants on their survey needs. Doing so would require an increase in the Council's current budget. Having a survey on staff would not only allow land grants to have their lands surveyed but would also provide them with the technical expertise to review and, if needed, challenge any surveys being conducted by private parties adjacent to their existing common land.

**Community and Economic Development Services** – Another area that land grants need expanded services in is in community and economic development. Since land grants currently lack any guaranteed revenue streams, initiating community and economic development projects is a challenge. The Council believes addressing this issue requires a multi-prong approach. First, land grants need to be given a guaranteed revenue stream. Doing so would allow them to not only expand existing community services already in place but will also give them funds to either reinvest in other community or economic development projects or to use for leveraging additional funding for community projects. For example, land grant could utilize guaranteed revenues for matching funds for Federal and State grants or as a means for serving private or

federal loan debt. Second, if given enough budgetary resources, the Council could employ one or more community and regional planning personnel that could assist land grants with comprehensive plan development, grant writing and administration, community and economic development project development and implementation, and other planning services. Lastly, the Council can continue to build its partnerships with the UNM Land Grant Studies Program and School of Architecture and Planning to not only hire students capable of doing short-term community project planning work but also to develop more course-related land grant projects that students can work on.

**Natural Resources Management** – Today land grants collectively manage approximately 200,000 acres of common land. While the amount of common lands managed by individual land grants ranges from several acres to over a 100,000 acres all share the common need for more expertise in the area of natural resources management. If given the proper budget the Council could help fill this need by creating a position for an individual with a background in natural resource conservation. Having such a position would allow the Council to help land grants to better manage and protect their natural resources. In addition, it would provide them with support for developing and implementing natural resource restoration projects on not only the common lands but also potentially on adjacent public lands.

**Property & Liability Insurance Coverage** – All land grants with property and limited budgets have trouble paying for liability coverage on the assets they own. If able to afford any insurance coverage land grants often have to choose between property coverage on the private market or tort claims liability coverage offered by the State’s Risk Management Division. The problem could potentially be solved if land grants are given a guaranteed revenue stream. In addition, the Council has discussed the idea of establishing an insurance coverage fund that land grants could apply for to help cover their premium costs. The fund could either be set up through the Council or under an agreement with the Risk Management Division, even though an agreement with Risk Management would only cover the Tort Liability Coverage and not general property damage coverage.

**Youth Develop Programing** – One of the prevalent issues facing land grant communities today is substance abuse. Problems related to substance abuse are affecting families throughout our state. In rural land grants communities, the lack of opportunities for youth can lead to early age drinking and drug use. Many grandparents are raising grandchildren due to the parents being absent because of drug addiction. While solving this problem is complex in nature and requires a multi-level support approach, one important component is development of youth programs aimed at building self-esteem and community and self awareness in tomorrow’s leaders. It is critical that a land grant youth focused program incorporates opportunities to learn about the history and culture of land-based communities in New Mexico and to engage in culturally relevant community service projects. The UNM Land Grant Studies Program in consultation with the Council and land grant-merced leadership from around the State, has identified this as a priority in the coming years. The Land Grant Studies Program has committed to hiring two part-time positions aimed at developing and growing a land grant youth leadership program. While this is a positive step in the right direction, more resources will likely be required to properly grow the program.

**Determining Compliance as Units of Government** – A final issue that has arisen over the years relates to identifying which land grants are operating as functioning local government entities. Specifically it is unclear who can make a determination about the governance status of a land grant, how is that determination made, and what is the relevance of the determination. As units of government there are certain requirements spelled out in statute found in not only Chapter 49 of the New Mexico Statutes but also in various other sections. While compliance with these different statutory requirements can serve as a measure of compliance, no specific state agency has been tasked with determining which land grants have complied. In addition, there is no specific law or regulation that identifies the consequence of not complying. While there are certain laws such as the Open Meetings Act or the State Audit Act that do assign regulatory authority to the Attorney General and State Auditor to ensure compliance with those Acts there is no specific agency tasked with ensuring compliance with the requirements found in the Land Grant General Provision or in specific land grant statutes. The Council believes the best way to address this issue is to: 1. Identify in statute what agency has oversight and regulatory authority to identify land grant governance status; 2. Identify in statute or regulation what the implications are of non-compliance with relevant laws; and 3. Require a certain amount of training for land grant boards of trustees to improve their understanding of and ability to comply with relevant laws.

Probably the most relevant state agencies that can be provided the authority to oversee and regulate land grant governance status are the Land Grant Council and Attorney General's Treaty of Guadalupe Hidalgo Division. Since the Council serves primarily in a support role for land grants it might not be ideal to have them also serve in an oversight and regulatory capacity. It would however make sense for the Attorney General's Office to serve in this role as they already serve in that capacity with regard to other state laws. This could be accomplished by amending the enabling statute that created the Treaty of Guadalupe Hidalgo Division found in §8-5-18, NMSA 1978. The Council could then work with the Treaty Division to assist land grants with reaching compliance, similar to how it currently works with the Auditor's Office when requested. Finally, the Council could be the agency that provides any required hours of training set in statute or in regulation.



## COUNCIL'S ANNUAL OPERATING BUDGET

### PAST FUNDNG

<b>Fiscal Year</b>	<b>Appropriation</b>
2010	\$75,000
2011	\$75,000
2012	\$0
2013	\$50,000
2014	\$50,000
2015	\$100,000
2016	\$174,700
2017	\$225,300
2018	\$221,900
2019	\$221,900

### FY 2019 BUDGET

	<b>FY 2019 Budget</b>
<b>DFA Admin Fee</b>	\$3,400
<b>Support Fund</b>	\$13,000
<b>Publishing</b>	\$1,056
<b>In State Travel</b>	\$6,000
<b>UNM Contract</b>	\$198,444
<b>F&amp;A</b>	\$33,074
<b>Staff Salary &amp; Fringe</b>	\$125,870
<b>Personnel Travel</b>	\$7,500
<b>Legal Service Contract</b>	\$30,000
<b>Supplies</b>	\$600
<b>Postage</b>	\$100
<b>Meeting Expense</b>	\$1,300
<b>Total</b>	<b>\$221,900</b>

<b>Staff Salary &amp; Fringe Breakdown</b>	
<b>Principal Investigator</b>	\$ 10,611
<b>Program Manager</b>	\$ 50,752
<b>Research Scientist II</b>	\$ 22,775
<b>Cartographer</b>	\$ 3,120
<b>Graduate Project Asst.</b>	\$ 8,279
<b>Under Grad Student</b>	\$ 5,220
<b>Total Fringe</b>	\$ 25,113
<b>Total Salaries &amp; Fringe</b>	<b>\$125,870</b>

<b>Budget Percentage Breakdown</b>		
<b>Admin</b>	<b>\$51,974</b>	23.4%
<b>Personnel</b>	<b>\$125,870</b>	56.7%
<b>Land Grant Legal Services</b>	<b>\$30,000</b>	13.5%
<b>Financial Support to Land Grants</b>	<b>\$13,000</b>	5.9%
<b>Publishing</b>	<b>\$1,056</b>	0.5%

## **BUDGETARY COMPARISON TO SIMILAR EXISTING AGENCIES**

<b>Agency</b>	<b>Mission</b>	<b>FY 2019 Legislative Appropriation</b>
<b>Land Grant Council</b>	Provide advice, assistance and support to land grants-mercedes throughout New Mexico, service as a liaison between land grants and other government entities and review, develop and promote federal and state policies relating to land grants-mercedes.	\$ 221,900
<b>Martin Luther King Jr Commission</b>	Promote Martin Luther King, Jr.'s nonviolent principles and philosophy to the people of New Mexico through remembrance, celebration and action so that everyone gets involved in making a difference toward the improvement of interracial cooperation and reduction of youth violence in our communities.	\$ 348,100
<b>Acequia Support Services (Acequia Commission &amp; Acequia and Community Ditch Education Program</b>	<b>Acequia Commission</b> - serve as a facilitator for communication between local acequia organizations and the state and federal governments, review plans or legislation that affect acequias and present findings to the governor and the New Mexico Interstate Stream Commission. <b>Acequia and Community Ditch Education Program</b> - disseminate information to acequias and community ditches, to the New Mexico Acequia Commission, and to the public; and to provide technical assistance and outreach to the acequias and community ditches.	\$ 486,200
<b>Governor's Commission on Disability</b>	Promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or other factors.	\$ 493,800
<b>Sentencing Commission</b>	Provide information, analysis, recommendations and assistance to the three branches of government and interested citizens so they can make policy decisions that benefit the criminal and juvenile justice systems.	\$ 551,600
<b>Office of African American Affairs</b>	The purpose of the public awareness program is to provide information and advocacy services to all New Mexicans and to empower African-Americans of New Mexico to improve their quality of life.	\$ 729,100
<b>Indian Affairs Department</b>	The purpose of the Indian Affairs Department is to coordinate intergovernmental and interagency programs concerning tribal governments and the state.	\$ 2,489,800
<b>Cumbres &amp; Toltec Scenic Railroad Commission</b>	The purpose of the Cumbres and Toltec scenic railroad commission is to provide railroad excursions through, into and over the scenic San Juan mountains.	\$ 4,426,800

## FUTURE BUDGET SCENARIOS

Budget Line Items	Budget LGC Alone @ DFA	Budget LGC Combined with LGSP @ UNM
<b>Admin Fee UNM @ 20% &amp; 5%*</b>	\$ 97,937	\$ 40,000
<b>Admin Fee DFA @ 5%*</b>	\$ 35,061	\$ -
<b>Support Fund</b>	\$ 50,000	\$ 50,000
<b>Insurance Assistance Fund</b>	\$ 40,000	\$ 40,000
<b>Publishing</b>	\$ 4,000	\$ 4,000
<b>In State Travel for Council</b>	\$ 7,000	\$ 7,000
<b>Personnel Travel</b>	\$ 14,000	\$ 18,000
<b>Legal Services Contract</b>	\$ 40,000	\$ 40,000
<b>Supplies &amp; Misc</b>	\$ 2,600	\$ 19,613
<b>Meeting Expense</b>	\$ 1,800	\$ 1,800
<b>Equipment, Software &amp; Maintenance</b>	\$ -	\$ 13,000
<b>Personnel Total</b>	\$ 443,887	\$ 606,587
Program Manager	\$ 51,000	\$ 68,000
Reasearch Historian	\$ 25,000	\$ 50,000
Attorney	\$ 50,000	\$ 50,000
Surveyor	\$ 46,000	\$ 46,000
Conservationist	\$ 36,000	\$ 36,000
Planner	\$ 32,000	\$ 32,000
Planner	\$ 32,000	\$ 32,000
Admin Assist	\$ -	\$ 20,230
Cartographer	\$ 9,360	\$ 9,360
Youth Coordinator North	\$ 16,640	\$ 33,280
Youth Coordinator Central	\$ 16,640	\$ 33,280
Principal Investigator	\$ 10,611	\$ 21,223
Graduate Student	\$ 8,320	\$ 16,640
Undergraduates	\$ 5,220	\$ 14,400
total Fringe	\$ 105,096	\$ 144,174
<b>Totals</b>	<b>\$ 736,285</b>	<b>\$ 840,000</b>

\* As an intergovernmental agreement between the Council, UNM and DFA, the Council is subject a 20% Facilities and Administration fee from UNM and a 5% admin from DFA; As a direct appropriation to UNM it would only be subject to a 5% general admin fee from UNM and no fees from DFA.

## Use of Funds Percentage Breakdown

Use Category	Budget LGC Alone @ DFA	PERCENT	Budget LGC Combined with LGSP @ UNM	PERCENT
Admin & Operation	\$ 158,398	22%	\$ 99,413	12%
Personnel	\$ 443,887	60%	\$ 606,587	72%
Direct Financial or Technical Support	\$ 134,000	18%	\$ 134,000	16%
<b>Total</b>	<b>\$ 736,285</b>	<b>100%</b>	<b>\$ 840,000</b>	<b>100%</b>