



Department of Finance & Administration Capital Outlay Bureau

ADMINISTRATION OF CAPITAL APPROPRIATIONS

PRESENTATION TO ICIP PARTICIPANTS

Ryan Serrano

Capital Outlay Bureau Executive Capital Analyst

Today's Topics

- Capital Outlay Bureau
 - ✓ What we do & What is capital outlay
- 2022 Legislative Session
 - ✓ 2022 Capital Appropriations, Reauthorizations & Other Signed Legislation
- Capital Outlay Implementation
 - ✓ EO 2013-006, Anti-Donation, Grant Agreement & Reporting
- Upcoming 2023 Legislative Session
 - ✓ Obstacles, Capital Outlay Timeline, Infrastructure Capital Improvement Plans
- Contact Information
 - ✓ State Agency Contacts and DFA Contacts

What we do?

The Capital Outlay Bureau (COB) is responsible for:

- Coordinate the funding and administration of capital projects.
- Work closely with executive agencies, the Governor's office (GOV), and the Legislative Finance Committee (LFC) to prepare the Executive Capital Budget.
- Oversee the capital budgeting process:
 - Assists with the questionnaire process; (SBOF)
 - Identifying local entities; (Executive Agencies)
 - EO Compliance; and (Executive Agencies including OSA)
 - Budgeting capital projects. (COB)
- Maintain the State Capital Project Monitoring System (CPMS).
- Utilize CPMS and SHARE accounting data to create reports on all capital appropriations. These reports are used to update dashboards and assist the LFC with their quarterly reports.
- 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 that is properly chargeable to a capital account and has 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.

Capital Outlay and 2022 Legislative Session

2022 Legislative Session – SB212 (STB)

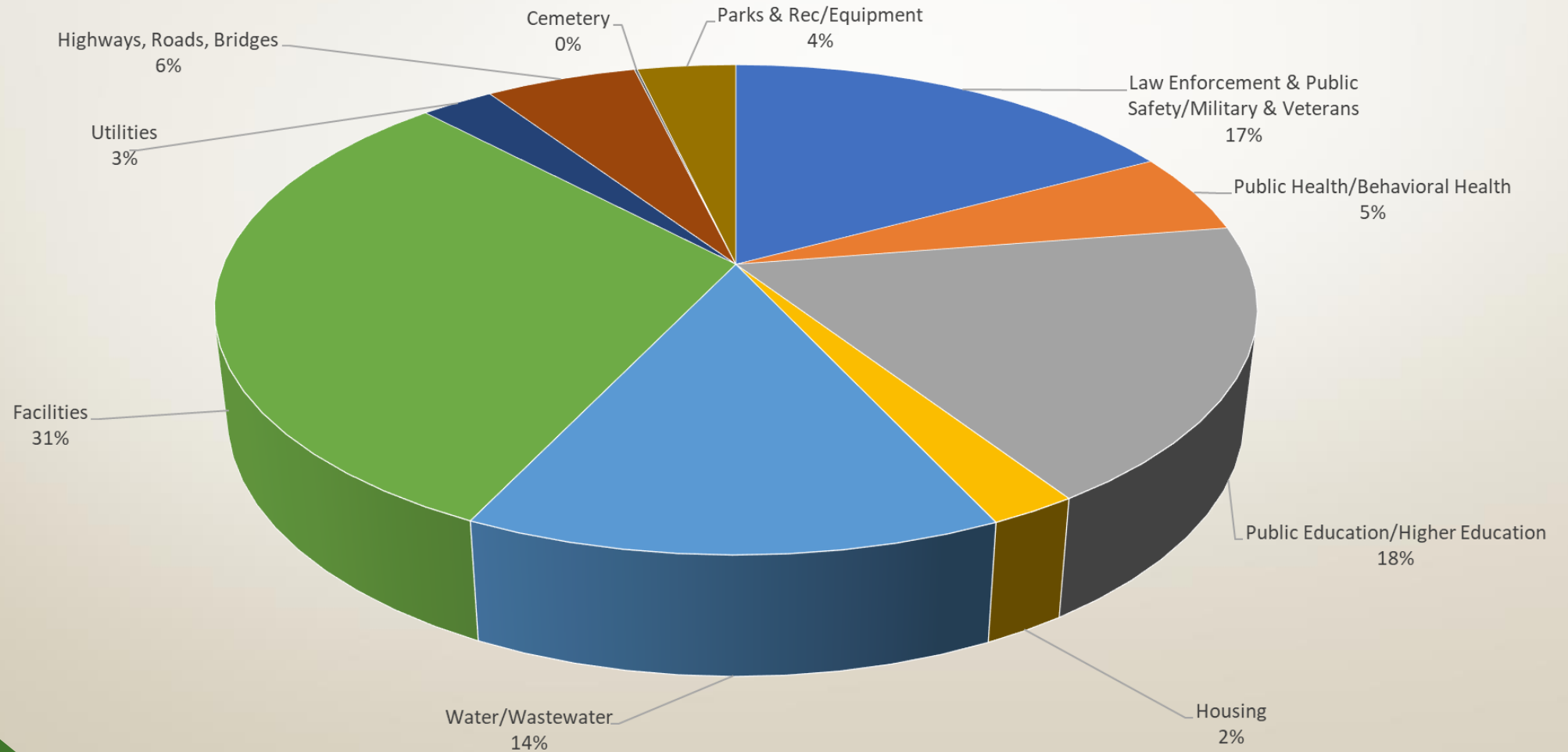
- New Mexico was appropriated about \$823 million for 1,303 state and local capital outlay projects. (SB212) (24 Vetoes and 30 Partial Vetoes)
- 1,147 projects totaling over \$394 million allocated for local capital outlay projects. (This includes all tribal and senior centers)
- 78 projects totaling over \$393 million allocated for statewide capital outlay projects.
- 78 projects totaling about \$36 million allocated for higher education capital outlay projects.
- General Fund (GF) appropriations will be budgeted through a CAPBUD submitted by the administering agency in FY23.
- Appropriations funded through Severance Tax Bonds (STB) will be budgeted through an automated upload by DFA in July once the bonds are sold.

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

Capital Outlay and 2022 Legislative Session

2022 Legislative Session – SB212 (STB)

By Category



Capital Outlay and 2022 Legislative Session

Bonds for Capital Outlay – 212

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 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 2022 Legislative Session

2022 Legislative Session – SB213

- The capital outlay reauthorization bill reauthorized 136 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.
- 11 reauthorizations were vetoed and 3 were partially vetoed.

Capital Outlay and 2022 Legislative Session

2022 Legislative Session – HB153 (GOB)

- New Mexico was appropriated about \$259 million for 107 state and local capital outlay projects. (HB153) (1 Partial Veto)
- 72 projects totaling over \$24 million allocated for senior center capital outlay projects.
- 31 projects totaling about \$216 million allocated for higher education capital outlay projects.
- 4 projects totaling about \$19 million allocated for library resource capital outlay projects.
- Appropriations funded through General Obligation Bonds (GOB) will be budgeted through an automated upload by DFA once the bonds are sold in Spring 2023.

Capital Outlay and 2022 Legislative Session

Capital Outlay Budget Process

- The budget process is different for each bill signed during the legislative session. For more detailed instructions please visit the Capital Outlay Bureau website at <https://www.nmdfa.state.nm.us/budget-division/capital-outlay-bureau/>.

Training Materials

Search files:

Title	Open File
CPMS Instructions - Local Entity	Open File
CPMS Instructions-State Agency	Open File
Capital Outlay Presentation_6-14-2021	Open File
Capital Outlay Budget Set Up 4-29-22	Open File

Capital Outlay and 2022 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.

https://www.nmlegis.gov/Publications/Capital_Outlay/HB%20285%20Capital%20Projects%20Publicatio%20by%20County%20with%20Sponsor,%202021.pdf

* All recent capital outlay appropriations (2018 – 2022) are located on the Capital Outlay Bureau website at <https://www.nmdfa.state.nm.us/budget-division/capital-outlay-bureau/>

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.

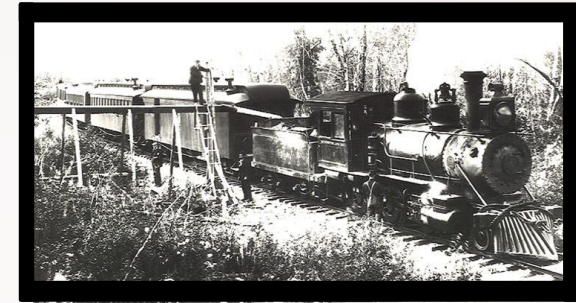
FIN 9.2 Grants Management—Funding Criteria and Oversight Requirements

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

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.
- 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

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)

Capital Outlay Implementation

Capital Projects Monitoring System (CPMS)

- CPMS instructions can be found on our website at <https://www.nmdfa.state.nm.us/budget-division/capital-outlay-bureau/>.

Training Materials

Search files:

Title	Open File
CPMS Instructions - Local Entity	Open File
CPMS Instructions-State Agency	Open File

Capital Outlay Implementation

Local Government Division Information

- <https://www.nmdfa.state.nm.us/local-government/community-development-bureau/legislative-information/>

* All state agencies may have minor differences in their internal process, but most should require a grant agreement, notice of obligations, pay requests for reimbursement and reporting requirements.



The screenshot shows the 'Legislative Information' page. At the top, there is a navigation breadcrumb: Home > Local Government > Community Development Bureau > Legislative Information. Below this, the page lists 'Legislative Capital Grants Projects' and 'Capital Outlay Guidance'. Under 'Capital Outlay Guidance', there are two links: 'Capital Outlay Guidance, Pay Requests – Presentation' and 'Capital Outlay Guidance, NOOs – Presentation'. There are two search boxes labeled 'Search files:'. The first search box is followed by a table with two columns: 'Document' and 'Open File'. The table contains three rows: 'Capital Project Guidance', 'W-9 Form', and an empty row. The second search box is followed by another table with two columns: 'Document' and 'Open File'. This table contains four rows: 'Exhibit 1 - Capital Grant Request For Payment Form (fillable)', 'Exhibit 1 - Request for Payment Form Instructions to complete and submit', 'Exhibit 2 - Notice of Obligation', and 'Exhibit 2 - Notice of Obligation for Multiple Vendors'.

Legislative Information

Home > Local Government > Community Development Bureau > Legislative Information

Legislative Capital Grants Projects

Capital Outlay Guidance

[Capital Outlay Guidance, Pay Requests – Presentation](#)

[Capital Outlay Guidance, NOOs – Presentation](#)

Search files:

Document	Open File
Capital Project Guidance	Open File
W-9 Form	Open File

Legislative Exhibits

Search files:

Document	Open File
Exhibit 1 - Capital Grant Request For Payment Form (fillable)	Open File
Exhibit 1 - Request for Payment Form Instructions to complete and submit	Open File
Exhibit 2 - Notice of Obligation	Open File
Exhibit 2 - Notice of Obligation for Multiple Vendors	Open File

Upcoming Legislative Session

Obstacles facing Local Governments & State Agencies

- **Piecemealed funding;**
- **Procurement processes;**
- **Contractor availability;**
- **Rising material/contractor costs;**
- **Supply chain causing delays;**
- **Turnover at the state and local levels;**
- **DFA administrative process.**

Upcoming Legislative Session

Capital Outlay Administrative Process and Timeline

Complete process for capital appropriations (FY 2023 – 4 Year appropriations):

- Planning process to identify projects that are ready; (Yearly)
- Enter planned projects into ICIP; (May 2022 through November 2022)
- Start preparing for annual audit to ensure EO compliance; (July 2022 through May 2023)
- Projects funded through capital bill; (December 2022 through February 2023)
- Capital bill drafted and signed into law; (February 2023 through April 2023)
- Projects budgeted at DFA; (April 2023 through July 2023)
- Grant Agreements issued and executed; (July 2023 through December 2023)
- Procurement Process; (January 2024 through March 2024)
- Construction; (March 2024 through March 2026)(Depends on project size and scope)
- Reimbursement Process; (March 2024 through June 2026)
- Project Closeout; (March 2026 through January 2027)(11-month warranty period)
- Project Closed. (January 2027 through June 2027)(Remaining balance reverted)

Upcoming Legislative Session

Suggested Administrative Reforms and Collaboration

- State Agencies standardize forms and databases to share information. (Grant Agreements & Audit Compliance – UFC forms)
- DFA is continuing to work with the Legislative Council Service on the 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. (Fully Functional Phase)
- Legislators continue to 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, such as local bonds and federal funds.

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 (2024-2028);
 - 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.



Upcoming Legislative Session

Infrastructure Capital Improvement Plan (ICIP)

- ICIP instructions for local entities can be found on the LGD website at <https://www.nmdfa.state.nm.us/local-government/icip/>.

ICIP – YOUR PROJECT PLANNING TOOL

The local government infrastructure capital improvement plan (ICIP) is a **PLANNING TOOL**, which establishes priorities for anticipated infrastructure projects for counties, municipalities, tribal governments, special districts, and senior citizen facilities. The local government ICIP is administered through the Department of Finance and Administration, Local Government Division. The ICIP planning tool encourages entities to develop and update their five-year plan annually which is submitted to the State. It provides an opportunity for communities to assist and assess any critical needs. Although the ICIP is not a funding source, it does include information in each project for state and federal funding opportunities.

FY2024-2028 ICIP Submission Deadlines

- Special Districts – Friday, July 15, 2022
- Tribal Governments – Friday, August 19, 2022
- Counties and Municipalities – August 19, 2022
- Senior Citizen Facilities – Friday, September 9, 2022

FY2024-2028 ICIP	File Type
FY2024-2028 ICIP Guidelines (rev. 5.5.2022)	PDF
FY2024-2028 Data Entry Instructions	PDF
FY2024-2028 ICIP Worksheets	DOCX
Appendix I – Completion Certification Form	PDF
Appendix II – Resolution Template	PDF
Appendix III – Permission for Access	PDF
2022 ICIP Virtual Training May Series 1	PDF
2022 ICIP Virtual Training June Series 2	PDF
2022 Infrastructure Capital Improvement Plan (ICIP) Submission Form	Online Form

Capital Outlay Bureau

State Agency Contacts

State Agency Contacts	Agency	Title	Phone	Email
Carmen Morin	DFA, Local Government Division (LGD)	Community Development Bureau Chief	505-470-8979	carmenb.morin@state.nm.us
Barbara Romero	Aging & Long-Term Services Dept. (ALTSD)	Capital Projects Bureau Chief	505-476-4704	barbara.romero@state.nm.us
Clarissa Martinez	Department of Transportation (DOT)	Management Analyst	505-699-9946	clarissa.martinez@state.nm.us
Rhonda Holderman	Environment Department (DOE)	Financial Manager, Loans and Grants	505-363-9396	rhonda.holderman@state.nm.us
Gerald Hoehne	Higher Education Department (HED)	Capital Projects Coordinator	505-476-8434	gerald.hoehne@state.nm.us
Lawrence John	Indian Affairs Department (IAD)	Capital Outlay & Tribal Infrastructure Fund (TIF) Administrator	505-690-2997	lawrence.john@state.nm.us
Amanda Lupardus	Public Education Department (PED)	Financial Coordinator	505-827-6613	amanda.lupardus@state.nm.us
Marcos Mendiola	Office of the State Engineer (OSE)	Program Manager	505-476-0261	marcos.mendiola@state.nm.us

Capital Outlay Bureau

Contacts

Debbie Romero (DFA Secretary) - 827-3651

Debbie.Romero@state.nm.us

Wesley Billingsley (Capital Outlay Bureau Chief) - 827-3884

Wesley.Billingsley@state.nm.us

Tonantzin Roybal (Executive Capital Analyst) - 827-4209

Tonantzin.Roybal@state.nm.us

Ryan Serrano (Executive Capital Analyst) - 827-4125

RyanS.Serrano@state.nm.us

Melody Montoya (Administrative Assistant) - 827-3696

Melody.Montoya@state.nm.us

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

Community Development Bureau

Contacts

Donnie Quintana (LGD Director) – 505-490-5788

Donnie.Quintana@state.nm.us

Carmen Morin (Community Development Bureau Chief) – 505-470-8979

Carmenb.Morin@state.nm.us

Annette Apodaca (ICIP Program Manager) – 505-369-0341

Annette.Apodaca@state.nm.us

Ariana Vigil (Project Manager) – 505-470-7041

ArianaM.Vigil@state.nm.us

Daniel Catanach (Project Manager) – 505-827-4973

DanielN.Catanach@state.nm.us

Dawn Webster (Project Manager) – 505-490-1528

Dawn.Webster3@state.nm.us

Donna Stewart (Project Manager) – 505-231-2993

DonnaJ.Stewart@state.nm.us

Jennifer McGrath (Project Manager) – 505-469-2910

Jennifer.mcGrath@state.nm.us

Maureen Ayers (Project Manager) – 208-805-6894

Maureen.Ayers@state.nm.us

Monica Tapia (Project Manager) – 505-470-1775

Monica.Tapia@state.nm.us

Steve Lacy (Project Manager) – 505-695-5602

StevenK.Lacy@state.nm.us



Questions...?

2022 Local Government Training Series

**Understanding the Legislative Process:
An Overview of Capital Outlay Appropriations**

**Nina Chavez & Cally Carswell
Legislative Finance Committee Staff
Capital Outlay Analyst
nina.chavez@nmlegis.gov
cally.carswell@nmlegis.gov**

June 3, 2022

Today's Agenda

The Legislative Process: An Overview of Capital Outlay Appropriations

- **What is the Legislative Finance Committee (LFC) and what is staff's role in the capital outlay process?**
- **What is the current landscape of the capital outlay process in New Mexico?**
- **What is the legislative process and why is it important to legislators?**
- **How can local entities help?**
- **What is the importance of tracking?**

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

What is the LFC?

- The Legislative Finance Committee is a 16-member committee of senators and representatives.
- Created in 1957, the LFC was established as the fiscal management arm of the Legislature.
- The Committee makes budgetary recommendations to the full Legislature for funding state government, higher education, and public schools.
- The LFC is staffed with full-time analysts, economists, and evaluators who prepare research, reports, and briefs for consideration by legislators.

Insight: Unlike most other states, in New Mexico both the governor and LFC propose comprehensive state budgets to the Legislature.

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

What is LFC staff's role in capital?

- The LFC staff develops a capital outlay “framework” for state-owned facilities legislation for the LFC and full Legislature to consider.
- The development of the “framework” is a year-long process working with the Department of Finance and Administration staff, higher education institutions, state agencies, and other stakeholders.
 - Site visits for major agency requests (prisons, juvenile facilities, hospitals, etc.)
 - Review Infrastructure Capital Improvement Plans (ICIPs) for state agencies and “local” requests
 - Serve on the Higher Education Department Capital Outlay Review Committee and ex-officio members of Executive Capital Outlay Review Committee
- Additionally, LFC staff tracks and reports on the progress of state-owned and local capital projects to legislators.
- LFC staff responds to legislator and constituent requests.

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

What actions are currently being taken leading into the 2023 session?

- From September to December, the executive and legislative staffs separately analyze capital outlay requests to design budget recommendations.
- Also during the fall, economists from the executive and Legislature develop a consensus revenue estimate. This forecast guides the budget process by predicting how much revenue will be available.
- The LFC finalizes budget recommendations in December.
- State law requires the Governor to submit a budget by January 5 in even-numbered years and by January 10 in odd-numbered years including expenditures for capital outlay.
 - *NMAC 6.3.10 and 6.3.21*

Insight: New Mexico is required to pass a balanced budget. The State also maintains reserve funds for unexpected shortfalls.

Why do legislators express significant interest in the capital outlay process?

- Legislators understand the need to invest in state-owned facilities that serve residents statewide: hospitals and long-term care facilities, detention centers, veteran facilities, special schools, recreational facilities, museums, etc.
- Legislators engage to improve the quality of life in their legislative districts: roads, community centers, water systems, wastewater systems, etc.
- Legislators collaborate with state and local officials and the private sector in supporting economic development statewide.

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

Why is capital outlay funding important to legislators and citizens of New Mexico?

- Long-term investments to improve the quality of life for New Mexicans.
- Provides public goods for residents and visitors that local entities may not have the capacity to finance otherwise.
- Supports local economies and creates jobs by funding construction activity or providing critical infrastructure.
- Realizes savings through efficiencies and asset protection.

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

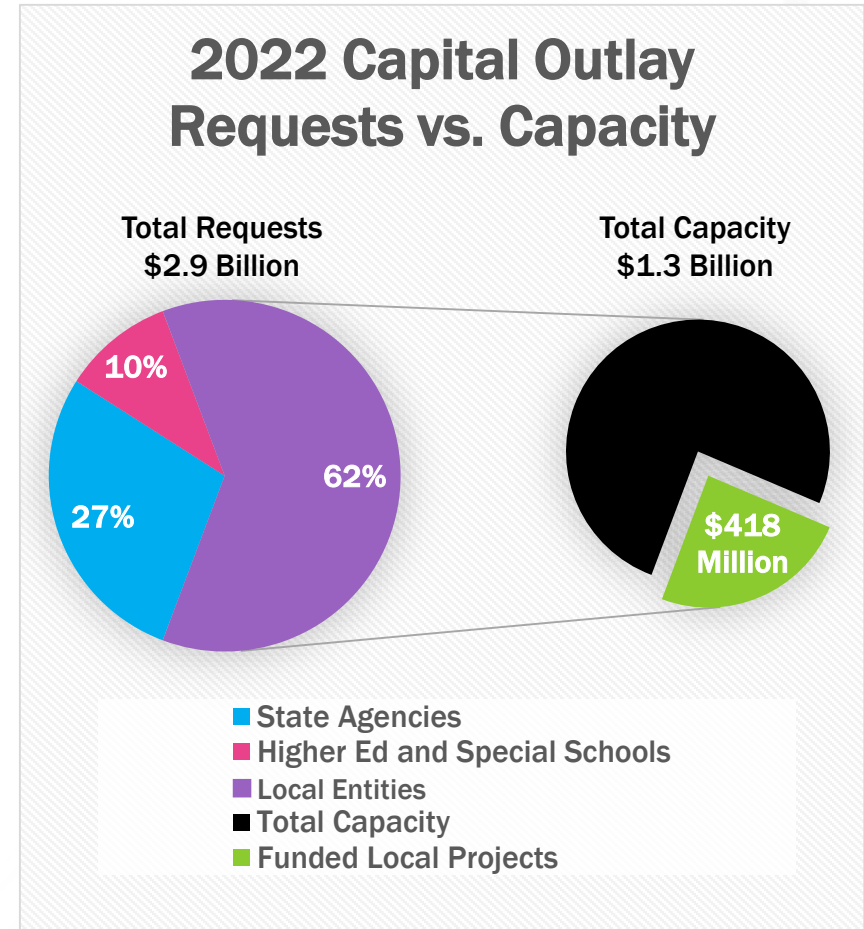
How do requests compare to funding?

The Capital Challenge: Not (Never) Enough Funding

- The total requests for capital outlay far exceed available funds.
- In 2022 Session:
 - Priority capital outlay requests totaled \$2.9 billion.
 - Local entities requested \$1.78 billion.
 - Total capacity was estimated at \$1.3 billion (or 44.8% of requests).

Source: LFC Files

Insight: Of the \$663.5 million in severance tax bond within the total 2022 capacity, an estimated \$418 million was appropriated to local projects.



How do we address this challenge?

The following criteria approved by the Committee is applied by staff in making recommendations for state-owned facilities:

- Project will eliminate health and safety hazards and liability issues;
- engineering reports, environmental assessments, etc. are complete;
- other funding is leveraged when possible; and
- project will be complete within a 12- to 18-month period.
- HED and Aging & Long-Term Care Services Department develop their own criteria.

Insight: Guidelines developed in collaboration with the NM Municipal League, NM Counties Association, and staff of the DFA and LFC are provided to assist legislators in local capital funding decision-making. (See next slide for list of key guidelines.)

Additional Recommended Criteria for Legislators to Prioritize Capital Outlay Requests

- **NEED**
 - Demonstrate project will reduce potential or actual health and safety hazards and liability issues or will provide sustainable infrastructure for economic development and growth
 - Project is a high priority on governmental entity's Infrastructure Capital Improvement Plan (ICIP)
 - Project enhances the ability of public entities to provide direct services to students, staff, or the general public
 - Land, property, rights of way, or easements required to begin construction have already been acquired
- **PLANNING & READINESS**
 - A formal planning document has already been completed
 - Project cost estimate is based on a complete planning document and represents a cost-effective solution to the need the project addresses, among potential alternatives that were analyzed
 - Local entity is audit compliant
 - Local entity does not have outstanding projects without activity or expenditures
 - Non-governmental entities are encouraged to get pre-approval from a local government agreeing to include project in ICIP and to serve as fiscal agent for the project.
- **FUNDING & TRACKING**
 - Request fully funds the project or a functional phase, provides required matching funds for a federal grant, or is necessary to complete a project that has already received partial funding
 - Funding requested could not be secured through other sources (Leverage state funds with local, federal, or other sources when possible to fully fund a complete or stand-alone phase)
 - Local entity has committed some local revenues to the project
 - Ensure the operational and maintenance costs can be adequately addressed.
 - Local government body takes an active role in its capital projects, including regular updates from staff on the status of ongoing projects

Capital outlay bill process during legislative session

- 1 Sponsors of capital bills (severance tax bond and/or general fund, general obligation bond, and reauthorization bill) are determined at LFC hearing in December prior to session.
- 2 Capital bills containing only projects approved by LFC are generally introduced in House or Senate within first two weeks of session and referred to Senate or House finance committees.
- 3 Legislators introduce “capital outlay requests” (HCOR or SCOR) during the session with an introductory deadline much like bills. Deadlines listed on Legislative Council Service website.
- 4 House or Senate finance committees hold hearings on capital bills recommended by LFC but subject to amendment or substitution.
- 5 House and Senate member capital outlay requests are rolled into a substitute bill.
- 6 Final passage of capital bills often occurs during the last two weeks of the session when all available funding sources are known.
- 7 House and Senate bills, as amended or substituted, are then referred to the House or Senate floor for legislative action.

Insights: (1) In the past few administrations, the Executive, House, and Senate have agreed to fund “statewide projects” off the top of available capital capacity. The governor, House, and Senate then evenly divide the remaining funds for local and other state projects.

(2) It should be noted, New Mexico remains the only state to divide state funds for local capital projects without a centralized department or committee for vetting and determining final funding for local capital projects.

(3) The current process has led to several bills intended to “reform” the capital process, but to-date only administrative changes have been made to improve and manage the projects.

Seven Obstacles for Capital Projects

- **Staff identified seven common issues for backlog of funds to develop capital projects**
 - **Lack of project planning**
 - **State requirements (Authorized but Unissued; Audit Compliance)**
 - **Rising construction costs**
 - **Administrative capacity**
 - **Technical capacity**
 - **Piecemealed funding**
 - **Right-sizing state support**

Obstacle 1: Lack of Project Planning

- **Local entities report successful use of capital appropriations when:**
 - Multiple stakeholders determine infrastructure capital improvement plan (ICIP) priorities;
 - Project cost estimates are professionally obtained,
 - And pre-session collaboration occurs with legislators.
- **Capital appropriations stall when entities use ICIPs as wish lists, planning occurs after funds are appropriated or a project no requested by an entity receives funding.**
- **Problem of duplication**

Obstacle 2: State requirements (Authorized but Unissued; Audit Compliance)

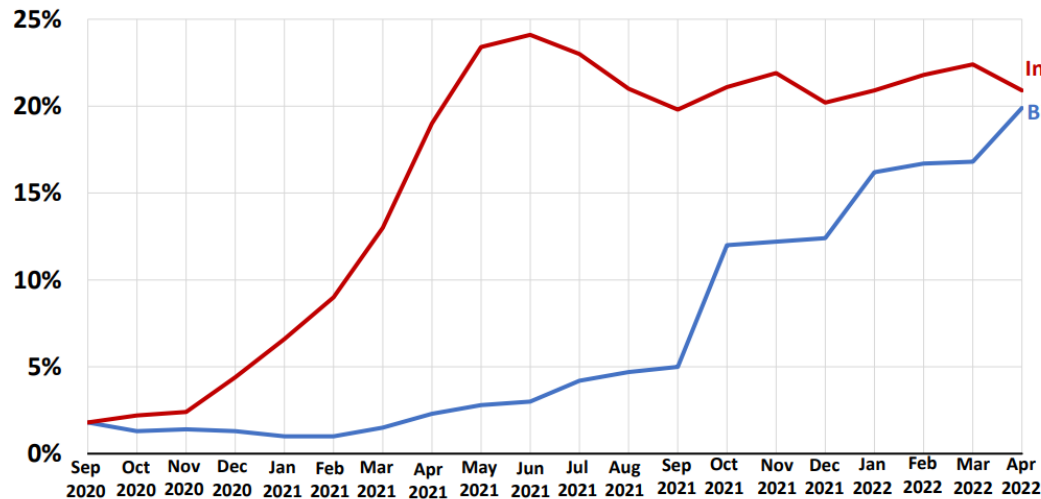
- In June 2021, the Board of Finance did not issue bonds for **116** authorized projects (\$31.2 million) due to:
 - Executive Order 2013-006: Audit Compliance
 - Projects funded from bonds must certify readiness (at least 5% expended in 6 months & 85% in 3 years)
- Fiscal agent agreements (for non-profits and non-audit compliant entities)

Obstacle 3: Increasing Costs

- Construction costs typically increase ~5% annually. Construction inputs were 24% year-over-year in June 2021 and are now 20% April 2022
- Supply-chain disruptions continue to slow projects

Costs vs. bid prices for new nonresidential construction

Year-over-year change in PPIs, Sep 2020–Apr 2022, not seasonally adjusted



12 months to:

Sep 2020 Apr 2022

Inputs PPI: 1.8% 20.9%
Bid price PPI: 1.8% 19.9%

Obstacle 4: Administrative Capacity

- Limited staff and turnover at both the local and state level hinder completing administrative tasks related to grant agreements, the procurement process, notices of obligations, and reimbursement requests.
 - 3,766 projects outstanding statewide
 - In 2021, Indian Affairs Department had two FTE overseeing 417 projects (\$193.8 million) including capital appropriations and the Tribal Infrastructure Fund (TIF).
 - As an example of a local project, Village of Maxwell's drinking water project was delayed due to a change in administrators.
- Entities may struggle to leverage complex funding sources with different requirements
 - Water projects alone have a multitude of state-level funding sources now increased by federal funding sources

Obstacle 5: Technical Capacity

- **Smaller entities struggle to obtain professional services and qualified contractors**
 - **Certain capital projects, such as water systems, require significant design and engineering expertise**
 - **Entities report a shortage of architects, engineers, and project managers**
 - **Smaller entities compete against projects in urban areas**
 - **Misaligned incentives with contracts can lead to sub-optimal outcomes**

Obstacle 6: Piecemealed funding

- **Capital projects do not advance if available funds cannot complete a functional phase.**
- **Piecemeal funding occurs when requests underestimate project costs or appropriations underfund requests.**
 - **Entities with limited planning capacity**
 - **Large districts with many needs**
 - **Rural areas often do not benefit from economies of scale**
 - **Lack of local or federal matching funds**

Obstacle 7: Right sizing state support

- **State agencies overseeing capital appropriations serve in many capacities including multiple annual trainings, statutory compliance, budget development, financial reimbursement, and technical support**
- **Different types of projects and different entities necessitate varying degrees of state support to use appropriations effectively**
- **Project managers at the NMED's Construction Bureau manage an average of 124 water and waster water projects. NMED reports project managers should ideally be assigned 70 projects.**

What Local Leaders & Capital Staff Can Do

Before requests are made:

- Confirm current state appropriations are progressing and fully funded; visit cpms.dfa.state.nm.us to search appropriations
- Confirm audit compliant
- Coordinate priorities with local stakeholders, other public entities, and legislators
- Requests should come from top priorities on the infrastructure capital improvement plan
- Regional projects in rural areas are encouraged
- Execute fiscal agent agreements with non-profits & non-audit compliant entities prior to submitting capital requests
- Fund studies, plan, and design with local funds before requests
- Demonstrate all funds are in place to complete the project within 12 to 18 months
- Use professional estimates and request funds for a phased/functional project. Discourage small projects costing less than \$100,000 unless completes the projects
- Incorporate a contingency and cost escalation into plans
- See “Guidelines for Local Capital Projects” for more information

What Local Leaders & Capital Staff Can Do

After requests are made:

- **Execute grant agreements, submit notices of obligations, and encumber funds as soon as appropriation is budgeted**
- **Provide timely updates through the Capital Project Monitoring System (CPMS) as required by grant agreement**
- **Contact the appropriate executive agency and/or LFC if support is needed**
- **Evaluate the progress of projects regularly**
- **Identify problematic appropriations and seek solutions**

Other Sources of Funding

- Consider other funding including federal programs and the following state sources:
 - New Mexico Finance Authority
 - Public Project Revolving Fund (PPRF)
 - Water Trust Fund
 - Drinking Water State Revolving Fund
 - Colonias Infrastructure Fund (CIF)
 - Local Government Planning Fund
 - NM Indian Affairs Department
 - Tribal Infrastructure Fund (TIF)
 - NM Environment Department
 - Clean Water State Revolving Fund
 - Department of Finance
 - Food Security Grant
 - Outdoor Recreation Grant

Understanding the Legislative Process: An Overview of Capital Appropriations

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov

What is the importance of tracking projects?

- Tracking all state resources provides accountability to tax-payers and policy-makers.
- Tracking and managing funds leads to effective uses of both state and local resources.
- Tracking demonstrates unspent proceeds, incomplete projects, waste, and misuse.
- Legislators receive quarterly reports on capital projects and use reports to determine additional funding for local entities.
- As of March 2022, roughly 3,300 “outstanding” projects authorized between 2018 and 2021 have an unspent balance of \$2.2 billion with an additional \$2.2 billion (including public school capital outlay projects) in new appropriations to over 1,400 state and local projects from 2022 Session. “Outstanding funds” include unspent but encumbered funds for capital projects in process.
- Grantees responsible for oversight of the project are required to update the Capital Project Monitoring System (CPMS) monthly (<http://cpms.dfa.state.nm.us/>); state agencies are required to update quarterly.

Why track legislation after capital bill has passed?

- Updates are important because they, in part, determine if money is being used and how monies should be allocated in future years.
- Some entities are not complying with the monthly CPMS updates as required in inter-governmental grant agreements between the state and local entities.
- Updates are many times difficult to interpret as written, making the status of the project unclear.
- CPMS is a tool highly used in determining the voiding or swapping of funds, especially at times when the state is facing solvency.

Unclear Update

\$10M Project:
Construction 50 percent complete.

Helpful Updates

MM/YYYY Fire suppression and sprinklers projects have been completed. Lab chairs have been received. Furniture PO for Student Success Center is in process.

LFC Capital Outlay Quarterly Reports

- LFC Capital Outlay Quarterly reports are available online:
 - https://www.nmlegis.gov/Entity/LFC/Capital_Outlay_Quarterly_Reports



The screenshot displays the New Mexico Legislature website. The header features the state seal and the text "New Mexico Legislature". A navigation menu includes links for Home, Legislators, Legislation, Committees, Publications, What's Happening, Webcast, Quick Links, Highlights, and Contact Us. The breadcrumb trail reads: Committees / Interim Committees / Legislative Finance Committee / Capital Outlay Quarterly Reports. Below this is a grid of menu items: Money Matters, Capital Outlay & Debt, Session Publications, Evaluation Unit Publications, Agency Report Cards, Newsletter, Committee Information, and About LFC. A second row of sub-menu items includes: Early Childhood & Education, Economic Development and the Workforce, Health & Human Services, Public Safety and the Courts, Natural Resources, General Government, Understanding Government Finances, Accountability in Government Act, and Information for State Agencies. The main content area is titled "Capital Outlay Quarterly Reports" and shows a tree view for the year 2022, with the month of May selected. Under May, there are four items: 1 - Outstanding Summary by County - April 2022 Attach A, 2 - Local Report - April 2022_ May 17 2022_FINAL - Attach B, 3 - Vetting Checklist and DFA Resources Guide Attach C, and 4 - MEMO Capital Outlay Local Projects Update May 2022. The month of April is also visible with four items: 1 - MEMO April 2022_ 4.28.22docx, 2 - \$1M or Greater Quarterly Report _April 2022_FINAL, 3 - WTB Summary - Attach B, and 4 - Colonias Summary - Attach C.



Thank you!

Nina Chavez & Cally Carswell
Legislative Finance Committee Staff
Capital Outlay Analysts

nina.chavez@nmlegis.gov

cally.carswell@nmlegis.gov