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HOUSE BILL 271

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Linda Serrato

AN ACT

RELATING TO CAPITAL EXPENDITURES; ENACTING THE PUBLIC FINANCE ACCOUNTABILITY ACT; CREATING THE PUBLIC FINANCE ACCOUNTABILITY FUND; ESTABLISHING FUNDING CRITERIA AND GRANT MANAGEMENT AND OVERSIGHT REQUIREMENTS; ENUMERATING DUTIES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; MAKING AN APPROPRIATION.

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 required by Section 12-6-3 NMSA 1978;

B. "department" means the department of finance and

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1 administration;

2 C. "grant" means a non-exchange transaction whereby
3 a state agency makes all or a part of a capital outlay
4 appropriation available to a grantee;

5 D. "grant agreement" means a written agreement
6 pursuant to which a state agency grants all or a part of a
7 capital outlay appropriation to a grantee;

8 E. "grantee" means an entity to which a state
9 agency grants or considers granting all or a part of a capital
10 outlay appropriation; and

11 F. "state agency" means any department,
12 institution, board, bureau, commission, district or committee
13 of state government and includes every office or officer of a
14 department, an institution, a board, a bureau, a commission, a
15 district or a committee of state government.

16 SECTION 3. [NEW MATERIAL] PUBLIC FINANCE ACCOUNTABILITY
17 FUND.--The "public finance accountability fund" is created in
18 the state treasury. The fund consists of appropriations,
19 gifts, grants and donations. The office of the state auditor
20 shall administer the fund, and money in the fund is
21 appropriated to the office of the state auditor to assist
22 grantees in complying with the Audit Act. Disbursements from
23 the fund shall be made by warrant of the secretary of finance
24 and administration pursuant to vouchers signed by the state
25 auditor or the state auditor's designee.

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1 SECTION 4. [NEW MATERIAL] FUNDING CRITERIA.--

2 A. The department shall establish the following
3 funding criteria for a grantee to be eligible for a grant:

4 (1) a grantee's annual audit for the most
5 recently concluded fiscal year must be a public record pursuant
6 to Section 12-6-3 NMSA 1978;

7 (2) in the case of a grantee whose most recent
8 annual audit, or special audit released since its most recent
9 annual audit became a public record, documents material
10 weaknesses or significant deficiencies that raise concerns
11 about the grantee's ability to expend grant funds in accordance
12 with applicable law and account for and safeguard grant funds
13 and assets acquired with grant funds:

14 (a) the grantee shall have remedied the
15 material weaknesses and significant deficiencies to the
16 satisfaction of the state agency making the grant;

17 (b) the state agency making the grant
18 shall have determined that it can impose and has the resources
19 to implement special grant conditions that adequately address
20 the material weaknesses and deficiencies; or

21 (c) the state agency making the grant
22 shall have determined that another appropriate entity is able
23 and willing to act as fiscal agent for the grant;

24 (3) in the case of a grantee that is not
25 required to have annual audits conducted pursuant to the Audit

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1 Act:

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

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

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

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

20 B. The department shall require the funding
21 criteria set forth in Subsection A of this section to be met
22 prior to allowing a state agency to:

23 (1) certify to the state board of finance for
24 the issuance of severance tax bonds for a project; or

25 (2) make a grant to a grantee.

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1 SECTION 5. [NEW MATERIAL] GRANT MANAGEMENT AND OVERSIGHT
2 REQUIREMENTS.--The department shall establish grant management
3 and oversight requirements that, at a minimum, require state
4 agencies to:

5 A. ensure that sales, leases and licenses of
6 capital assets acquired with capital outlay appropriations
7 granted to a grantee are approved in accordance with applicable
8 law;

9 B. in the event no oversight agency is required to
10 approve of a sale, lease or license of capital assets acquired
11 with capital outlay appropriations granted to a grantee,
12 independently confirm that the disposition of capital assets
13 complies with applicable law and that the grantee is receiving
14 adequate consideration in exchange for the capital assets;

15 C. utilize the appropriate capital outlay grant
16 agreement template developed by the department; and

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

20 SECTION 6. [NEW MATERIAL] DUTIES OF THE DEPARTMENT.--The
21 department shall:

22 A. prescribe procedures, policies and processing
23 documents to implement the funding criteria and grant
24 management requirements set forth in Sections 4 and 5 of the
25 Public Finance Accountability Act;

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

3 C. develop criteria for granting requests for
4 deviations from its grant agreement templates and grant
5 management and oversight requirements; and

6 D. monitor and enforce state agencies' compliance
7 with the funding criteria and grant management and oversight
8 requirements required by Sections 4 and 5 of the Public Finance
9 Accountability Act.

10 **SECTION 7. APPROPRIATION.--**One million dollars
11 (\$1,000,000) is appropriated from the general fund to the
12 public finance accountability fund for expenditure in fiscal
13 year 2025 to support financial reporting for grantees pursuant
14 to the Public Finance Accountability Act that are not in
15 compliance with the Audit Act. Any unexpended or unencumbered
16 balance remaining at the end of fiscal year 2025 shall revert
17 to the general fund.

18 **SECTION 8. EFFECTIVE DATE.--**The effective date of the
19 provisions of this act is July 1, 2024.