

LFC HEARING BRIEF

AGENCY: LFC Staff

DATE: May 11, 2009

PURPOSE OF HEARING:
Capital Outlay Quarterly Report

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EXPECTED OUTCOME:
Informational

BACKGROUND INFORMATION

The March 2009 Capital Outlay Quarterly Report provides the Legislative Finance Committee (LFC) and members of the Legislature with the current fiscal accountability for outstanding capital funding appropriated between 2002 and 2008. The report demonstrates appropriations, expenditures, and balances for all active capital projects and other issues for consideration. The data, updated as of March 16, 2009 is derived from the Capital Projects Monitoring System (CPMS) operated and maintained by the Department of Finance and Administration.

Data within the report does not include \$139.9 million for 73 projects authorized in the 2009 Legislative Session (Chapter 125, House Bill 154). The bill passed without the emergency clause; therefore, the effective date of the funding is June 19, 2009. The funds will be captured in the next quarterly report. The report does include general fund and severance tax bond funds voided for solvency in Chapter 5, House Bill 9.

CAPITAL OUTLAY FUNDING UPDATE

Quarterly Report Results. Analysis of data from the CPMS for outstanding capital funding authorized between 2002 and 2008 demonstrates the following:

- Of \$3.7 billion appropriated during the reporting period, \$1.4 billion for 6,454 projects remains unexpended.
- Since December 2008 report, \$277 million was expended or voided for 550 projects.
- Unexpended balances by fund: general fund (\$497.2 million), severance tax bonds (\$445.6 million), general obligation bonds (\$109.2 million), and other state funds (\$45.4 million).
- Nearly \$654.2 million accounts for 4,066 projects with no expenditures or activity (excludes general obligation bonds scheduled for sale in May for \$223.8 million for 194 projects).
- Of the 4,066 “inactive” projects, 2,140 projects totaling \$65 million represent appropriations of \$50,000 or less.

Capital Appropriations with No Activity
(in millions of dollars)

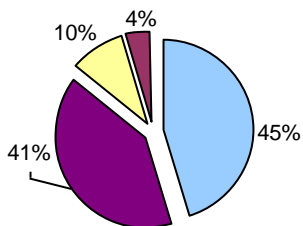
Year	# of projects	Dollar amount
2008	1,653	242.2
2007	1,340	243.1
2006	573	118.9
2005	332	36.8
2004	154	10.8
2003	9	0.2
2002	5	2.2
Total	4,066	\$ 654.2

Source: LFC Files

**2002-2008 Capital Outlay Funding
"Outstanding" Projects Only**
(in millions)

Year	Number of Projects	Amount Appropriated	Amount Expended	Amount Unexpended	Percent Expended by Year
2002	10	\$ 31.3	\$ 25.2	\$ 6.1	81%
2003	13	\$ 14.3	\$ 13.6	\$ 0.7	95%
2004	384	\$ 122.9	\$ 87.3	\$ 35.6	71%
2005	677	\$ 224.0	\$ 138.4	\$ 85.6	62%
2006	1,128	\$ 468.3	\$ 163.5	\$ 304.8	35%
2007	2,176	\$ 621.2	\$ 180.5	\$ 440.7	29%
2008	2,066	\$ 587.1	\$ 31.7	\$ 555.4	5%
Total	6,454	\$ 2,069.1	\$ 640.2	\$ 1,428.9	

Percent of Unexpended Capital Balances by Fund 2002-2008



- General Fund
- Severance Tax Bonds
- General Obligation Bonds
- Other State Funds

Source: LFC

STATUS OF \$1 MILLION OR GREATER AND HIGHLIGHTS OF SELECT PROJECTS

- Of \$1.4 billion outstanding, LFC staff currently tracks \$821 million for 356 projects funded for \$1 million or greater which accounts for 59 percent of all unexpended funds.
- \$100.3 million was expended and 24 projects closed since the December 2008 Quarterly Report.
- As of this date, it is unknown how many projects will require additional funds for completion; staff will work with entities during the interim to determine additional funding needs.

Major Milestones Achieved in Last Quarter.

Ruidoso Downs Regional Wastewater Treatment Plant

- \$2.5 million general fund appropriated in 2007 and swapped with STB in Laws 2009 Chapter 5 (HB 9); design for phase I-B is complete and is out to bid; NMED and the City of Ruidoso Downs indicate the state grant combined with a USDA loan of \$8.5 million and clean water state revolving loan of \$3.4 million will complete funding for the project; construction bids came in approximately \$6 million under original estimates.

Southwest Regional Spaceport

- [\\$112.5 million general fund and STB appropriated between 2004 and 2008; conditions \(execute lease agreement, complete environmental impact study, gain FAA licensure, and certify that project costs will not exceed \\$225 million from all sources\) for funding were met to allow for certification of bonds; project proceeding with RFP process to begin construction of facility.](#)

LEGEND

Project on schedule	163
Behind schedule or little activity	131
No activity or bonds not sold	62
Total Active Projects ≥ \$1 million	356
Other report information:	
Appropriation expended or project complete	24
X Additional funds needed	5

**\$1 Million or Greater
Projects Requiring
Additional Funds:**

- Mora courthouse construction
- Museum of Natural History & Science construction
- Las Cruces Veterans' & Military Technology Museum construction
- Pecos water & wastewater project
- Eunice wastewater treatment plant

Department of Public Safety

- \$1 million general fund appropriated in 2006 for the Albuquerque DPS District Office renovations and equipping; project bids were completed and notice to proceed was issued; construction to begin early next quarter.

Lordsburg Port of Entry

- \$9.5 million STB appropriated in 2007 & 2008; \$1.5 million appropriated in 2009 allows project to proceed; new funds will equip a spur road and allow construction to proceed as originally planned; construction documents to be developed and bid out by August 2009.

New Mexico Mortgage Finance Authority

- \$2 million STB appropriated in 2008 for the Affordable Housing Act; project received reauthorization in 2009 Legislative Session which will allow implementation of project; project was previously unable to move forward due to language restrictions.

Completed Projects or Significant Activity Since Last Quarter.

San Juan Regional Medical Center

- \$1 million STB appropriated in 2006; project construction was completed; final pay request and reimbursement of funds occurred in March 2009.

St. Vincent Regional Medical Center

- \$1.2 million general fund appropriated in 2007 for expansion of the emergency room; previous grant agreement delays between the hospital and DFA were resolved; construction of the expansion was completed and all funds have been expended.

Los Morros Business Park in Los Lunas

- \$4.2 million general fund appropriated in 2005; project was finalized and construction completed; project will be closed following submission of final payment to DFA.

Mesalands Community College

- \$1.9 million general fund and STB appropriated in 2007 for the MCC North American Wind Research and Training Center; wind turbine is erected and funds expended; additional \$7 million authorized in 2008 GOB and \$470 thousand reauthorized in 2009 will provide funds to continue to plan, design, construct, equip, and furnish the center. MCC indicates a potential shortfall, but will attempt to complete project with current funding.

New Mexico Environment Department

- \$1 million general fund appropriated in 2006 for the Bernalillo water and wastewater system facility; entire \$1 million expended in the last quarter and construction was completed.

Projects Experiencing Delays or Requiring Additional Funds.

Las Cruces State Police District Office

- \$5.8 million STB appropriated in 2007 & 2008 for construction; communication tower issues have delayed the project; the location of the property resides on low ground requiring a new tower to be erected; Property Control Division is working with DoIT to resolve the issues; anticipate construction bids by October 2009.

Las Vegas State Police District Office

- \$5.5 million STB appropriated in 2007 & 2008 to construct a district office; communication tower and utilities infrastructure have delayed the project; PCD is working with DoIT to coordinate relocation of the communication towers; the utilities infrastructure needs to be extended by ½ mile to the new site; anticipate construction bids by October 2009.

Aging and Long Term Services Department

- \$3 million general fund appropriated in 2008 for senior center vehicles statewide; purchasing of vehicles has been delayed by a “handful” of entities due to a dealership going out of business; agency is bidding for new quote.

New Mexico Highlands University

- \$3.5 million GOB appropriated in 2006 for Felix Martinez building renovation; construction was to begin August 2009, but HED advised NMHU to start construction by June 2009 or face possible fund reversions before completion.

Department of Cultural Affairs

- \$1.2 million STB appropriated in 2007 for the Las Cruces Veteran’s and Military Technology Museum; plan, design and land acquisition to begin in fiscal year 2010; an estimated \$21 million in capital funding will be needed for the project; an additional \$2 million annually is need for operating the museum.

Red Flag Projects “No Activity” Since Last Quarter.

Pojoaque Valley Water and Wastewater System

- \$1 million general fund appropriated in 2005; grant agreement was

Highlights of Reauthorized Capital Outlay Projects

- \$500,000 authorized for projects in Raton, Red River, and Harding County changed to Anderson-Abruzzo International Balloon Museum.
- \$550,000 authorized for Elephant Butte irrigation district changed to purchase property in and around the downtown area for public facilities in Albuquerque.
- \$300,000 authorized for projects in Raton, Rodey, and Milagro changed to a feasibility study for direct route from Albuquerque Sunport to the Rail Runner Depot.
- \$800,000 authorized for projects in Grant County, Aztec high school, and Dine College changed to UNM Pit Sports Arena.
- \$1 million authorized for various local projects changed to NMSU athletics and Department of Agriculture.
- \$1.1 million for projects in Dona Ana County changed to multipurpose/community center in San Miguel in Dona Ana County.
- \$600,000 for various idle projects changed to construction of the Mora County courthouse.
- \$470,000 for Laguna Pueblo water/wastewater changed to Mesalands Community College North American Wind Research and Training Center.
- \$1.1 million for projects in San Juan and McKinley Counties changed to construct a home for women and children in Shiprock in San Juan County.

signed in July 2008 with no activity since; it was reported that Santa Fe County has not defined a plan for the funding.

Department of Transportation

- \$1.5 million STB appropriated in 2007 and reauthorized in 2009 (HB 9) for the Strauss Access Road in Dona Ana County; milestones for the project were not achieved and have been moved to the next quarter.
- A majority of the “red flagged” projects were funded with 2008 general obligation bonds authorization; entities are awaiting the May issuance of the bonds to proceed with the projects.

MANAGEMENT AND OTHER ISSUES

\$1 Million or Greater Management Issues. The Local Government Division (LGD), Environment Department, and General Services Department administer the majority of projects for projects funded with \$1 million or greater. Due to the numerous projects administered by LGD, the LFC staff is experiencing delays in receiving timely and accurate quarterly reports. For this reporting period, where updates were incomplete or questionable, LFC staff directly contacted the local entity. Inasmuch as LGD staff may have a ratio of 800 projects to one FTE, one option may be for LFC staff to request updates directly from the grantee, but verified by LGD project managers. A meeting between LGD and LFC staff is being planned prior to the next reporting period to discuss ways to improve the process.

In addition, the LFC, LGD, and other state agencies will continue their efforts during the interim to review and take the necessary steps to move both small and large projects that may be stalled.

2009 Reauthorizations. The Local Government Division anticipates completing the research process and preparation of grant agreements for projects reauthorized in 2009 before June 1, 2009. Other agencies with fewer assigned reauthorizations are already developing grant agreements and setting up new budgets for the projects. While the executive and the Legislature reauthorized 553 projects to either change the purpose or extend the project fund reversion date, the total dollar value of the reauthorizations may only be a “drop in the bucket” relative to the 4006 outstanding projects without activity. A quarterly report “by sponsor” will not be generated and mailed out until all reauthorizations have been researched and balances are reconciled.

Reimbursement and Non-Profit Issues. On February 12, 2009, the director of the Local Government Division (LGD) sent

General Fund Reimbursement Requirements:

- 1) "LGD will review the grant files for documentation already required by the grant agreements, and
- 2) require a letter or other written certification that:
 - is signed by an authorized representative of your local government's governing body and its legal counsel; and
 - states that all current and future agreements between your local government and any private for profit or private non-profit organization complies and/or will comply with all state laws, including but not limited to, the "anti-donation" clause of the New Mexico Constitution, Article IX, Section 14.1

correspondence to all local government entities regarding implementation of new procedures pertaining to *all state general fund appropriations*, including capital projects. The new procedures are intended to expedite reimbursements, particularly, reimbursements for non-profit organizations. (See Attachment A)

The major change provides that LGD "will no longer require local governments to submit copies of agreements with private for profit or private non-profit organizations as lessee, licensee or operator, for LGD review or approval or have those agreements approved in accordance with a law, such as Section 13-6-2.1 NMSA 1978, prior to a reimbursement being processed." The exception means "general fund" appropriations of more than \$25 thousand will no longer require approval by the BOF. Instead, LGD will require those steps listed in the sidebar. The procedures do not apply to severance tax bond and general obligation bond authorizations subject to review and conditions imposed by the Board of Finance (BOF) or its legal counsel. Also, the procedural change will not affect any law requiring the local entity's lease or operating agreement approval by LGD, BOF or other approving agency.

For 2009 and future general fund appropriations, the Department of Finance and Administration (DFA) proposes to promulgate a rule establishing new procedural requirements in order for local governments to receive "general fund" reimbursements. The rule will propose requirements and standards for local governments' agreements with private for profit or private non-profit organizations. DFA does propose to hold public hearings and take input from all entities affected before implementation of new policy or rules.

Capital Outlay Interim Work Plan. LFC capital staff is currently working on developing a plan for developing recommendations to the Legislature in 2010. The plan will include criteria and other guidelines staff will use for assessing statewide project requests and general obligation capacity uses. The plan may also include collaboration with various agencies to assess "critical" local and tribal capital issues. Staff will present the plan for the committee's approval at its next hearing. As in past years, staff will continue to monitor and update progress reports for projects \$1 million and greater, assist legislators in advancing local projects, and work with local entities to improve the effectiveness of state capital outlay appropriations.

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