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Remarks to the New Mexico Legislative Finance Committee

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State Agency Capital Outlay Process

Good Morning Mr. Chairman and Members of the Committee, My name is Rick Lopez. I serve as the Department of Finance and Administration (DFA), Local Government Division (LGD) Director. With me today is DFA Deputy Cabinet Secretary Stephanie Schardin Clarke, who is familiar with the State's bonding programs and available for your questions.

It is my pleasure today to share with you insights into the complex processes Capital Outlay administration requires of State Agencies.

It is important for me to point out that my comments are not to criticize or praise the state's Capital Outlay process, but rather I have been asked to share with you my experience and observations of working every day for the *past*

year and a half in some capacity with a State Agency that receives Capital Outlay appropriations for use by local entities.
My comments will be limited to the DFA Capital Outlay process. DFA's Local Government Division administers about 170 new Capital Outlay projects annually. But in addition to being a Grantor agency, DFA houses the Board of Finance Division, which issues the State's bonds, and the Financial Control Division, which processes State payments.

The term Capital Outlay does have a specific definition, but generally it means *money spent to acquire, maintain, repair, or upgrade capital assets*. Capital assets should be thought of as those assets with long useful lives. There is no doubt that capital outlay funds, stimulate the states and local economies through construction and planning jobs as well as through the use of small business suppliers.

Capital Outlay funds also can improve statewide, regional and local infrastructure, which, if property prioritized, should make the State more competitive in the recruitment of jobs.

A vast number of entities are involved in the process over a project's life, such as the Legislative Council Service, the Legislative Finance Committee, several distinct divisions within DFA, the Office of the Governor, over a dozen State agencies, the New Mexico Association of Counties, the New

Mexico Municipal League, Economic Development Councils, Cities, Counties and Special Districts to name just a few.

Because of this extensive network of stakeholders, *Close and Continuous Communication* between all these entities is a must requirement for a successful Capital Outlay process.

I often get calls inquiring about the status of a capital project, and the caller has often been told that "DFA" is holding something up. I have to laugh a bit, because just within DFA, dozens of individuals working in at least *seven* different Divisions or Bureaus play a part in processing some aspect of Capital Outlay. All of these divisions communicate constantly to efficiently process Capital Outlay as quickly and accurately as possible.

DFA has been working to document its agency-wide capital outlay procedures, and so far, those procedures are over 80 pages long!

I'd like to walk the Committee through an overview of the major steps that occur within DFA alone, related to Capital Outlay to shed some light on the complexity.

The Board of Finance Division

Each spring (and less so each fall), staff and bond counsel screen over 1,000 new legislatively authorized capital projects annually for legal compliance, IRS tax code restrictions, and project readiness to proceed.

BOF staff estimates they spend about 15 minutes reviewing each of these 1,000 project questionnaires, and significantly more time on the projects that have anti-donation issues due to use of the capital asset by a private or nonprofit entity. BOF staff is also keenly involved in estimating bonding capacity, bond issuance, and compliance with all applicable laws after bond issuance.

Board of Finance Division also receives the draw requests on every capital project, creates a voucher in SHARE for each expense and processes draws on the 1st and 15th of each month. They send copies to ASD, State Treasurer's Office (STO) and the Financial Control Division (FCD). This is the basis for operating transfers to move money from the Board of Finance bond funds to the agency receiving the reimbursement.

The Capital Outlay Bureau

Spends approximately 80 percent of its staff's time overseeing this large volume of capital projects. The Bureau reviews State Agency ICIPs to assist the Governor in crafting the *Executive Capital Outlay recommendation*, tracks capital outlay requests introduced during each legislative session, reviews the capital outlay bill, establishes a budget in SHARE for each individual project, determines which projects are subject to the 1 percent statutory art in public places (AIPP) set aside, interprets project reversion dates, and manages reporting for State agencies ICIP and local governments project status through monitoring the CPMS data base.

The Local Government Division

Coordinates local government completion of bond project questionnaires, certifies that bonds should be sold, reviews local government *audits for Executive Order 2013-006* compliance, establishes and verifies project budgets, confirms project reversion dates, generates and executes grant agreements, reviews and approves grantee notices of obligation, reviews grantee progress reports, approves and processes requests for payment, and reverts unspent balances, and populates quarterly updates into CPMS.
Significantly more time is spent on projects with *antidonation* issues or fiscal agent agreements required due to local audit issues.

Capital projects with private use by a private or non-profit entity require intensive legal analysis to ensure compliance with the antidonation clause. This can be particularly challenging when the private entity is paying rent in the form of in kind services, which also needs somehow to be fairly valued.
I would expect that resources committed by the Local Government Division are similar at other State agencies that enter grant agreements for local projects, such as the Environment Department, the Aging and Long Term Services Department, and the Public Education Department (to name a few).
LGD staff simultaneously submits the requests for payments to the Administrative Services Division and draw requests to the Board of Finance in order to reimburse the grantees.

The Administrative Services Division

Coordinates the financial reimbursement process for LGD capital projects. ASD staff reviews W-9 information and provides the final approval of Notice of Obligations and creates a liability for the LGD on DFA books.

This includes moving amounts from a "pre-encumbrance" to an encumbrance on the DFA's general ledger. ASD verifies requests for payments for accuracy, and processes the 1st and 15th of each month based on the draw requests received at BOF.

The Financial Control Division

Issues an ACH or warrant for each draw received from BOF and confirmed by ASD. Prepares copies of ACH or warrants to be picked by BOF and ASD. For LGD draws, ASD provides copies to LGD verifying the expense. LGD tracks, sends verification of ACH or original warrants to local grantees.

One special item to note about Financial Control is that deadlines for closing Fiscal Year 2016 are moving forward somewhat, as they have in recent years, to allow more timely completion of the States Comprehensive Audited Financial Statements (CAFR).

What is important for Capital Outlay projects is that if an expenditure is made before June 30, 2016, but not yet paid, State agencies will continue to accrue a liability to allow the expense to be paid for a while into Fiscal Year 2017. But the deadline to close out these accruals is moving forward by about two months. This year, Fiscal Year 2016 accruals will need to be paid out by November 30, 2016.

So all State agencies will need to be *communicating* with local entities, and local entities will be responsible from submitting the required documentation earlier than in the past.

Other Specific Processing Responsibilities covered by LGD Payment Reimbursement:

Communication is a key component to this process between LGD and the local Grantees. If the local entity's documents are in order, LGD can get reimbursements to the local government within *30* d*ays!* However, if the documents are not in order, LGD notifies the local grantee of the issues that need to be addressed and this will delay the process for everyone.

LGD reimbursements to local grantees in the last 5 months were as follows:

January	$835,932.53
February	$1,189,546.54
March	$1,630,810.47
April	$4,311,582.22
May *	$2,065,553.92
Total	$10,033,425.68

Infrastructure Capital Improvement Plan ICIP

LGD also provides annual trainings to local entities on completing their local infrastructure capital improvement plans (ICIP) to establish planning priorities for anticipated capital projects on a Five Year Plan.

Local public bodies need to follow strict deadlines so Communication is a must!

FY2018-2022 Local Government ICIP Deadlines
SPECIAL DISTRICTS - JUNE 15, 2016 by 5:00 PM
TRIBAL GOVERNMENTS - JULY 15, 2016 by 5:00 PM
COUNTIES AND MUNICIPALITIES - SEPTEMBER 1, 2016, by 5:00 PM
SENIOR CITIZEN FACILITIES - SEPTEMBER 15, 2016, by 5:00 PM

LGD really encourages legislators to use this valuable resource as they plan how to allocate their capital outlay allocations. ICIPs should let legislators know which projects a local entity has formally decided are its priorities, and using the ICIP should result in fewer projects being appropriated by the legislature but rejected by the local entity.

Mr. Chairman and members of the Committee, this concludes my remarks, which just minimally reflect the work involved at DFA on Capital Outlay. Again, Communication in all areas is the key.