

## **Capital Outlay Grant Management Best Practices**

Staff of the Legislative Finance Committee and the Department of Finance and Administration collaborated with the executive directors of the Association of Counties, and the New Mexico Municipal League to develop best practices to assist capital outlay recipients in effectively managing their projects. Below are best practices entities should follow to assist with the implementation of their capital outlay projects.

### **Grant Agreement**

- Thoroughly review intergovernmental grant agreement (IGA) to understand all the terms and conditions that apply to the grantee;
- Sign, notarize and promptly return the IGA to the state grantor agency;
- Communication should be between the local grantee and the state grantor agency's representative named in the IGA;
- In order to prevent delays, forms and documentation should be filled out completely and accurately by grantee;
- Only use state grantor agency's assigned forms per the IGA;
- Grantee shall adhere to all terms and conditions stated in their grant agreement;
- In order to ensure reimbursement, the grantee should not incur expenses before IGA is fully executed and notice of obligation (NOO) is approved; and
- Note mandatory grantee reporting requirements, including monthly Capital Project Monitoring System (CPMS) updates.

### **NMAC 2.61.6 - Bond Project Disbursement Rule**

- Project expenditures are limited to the scope of authorizing legislation as interpreted in NMAC 2.61.6.8;
- Expenditures not included in the appropriation language will not be reimbursed;
- Administrative costs, indirect project costs, and other operating costs are not reimbursable per the Severance Tax Bonding Act and NMAC 2.61.6.8; and
- Contact the state grantor agency representative with questions regarding expenditures.

### **Notice of Obligation (NOO)**

- The state grantor agency is not liable to reimburse expenditures until a NOO is approved;
- The IGA shall be fully executed before an NOO is approved;
- Grantee must provide documentation to the state grantor agency as soon as a third party agreement is executed;
- NOO's submitted to the state grantor agency must include a copy of the contract and/or purchase order (quotes and estimates are not acceptable backup documentation); and
- In order to ensure reimbursement, expenditures shall not be incurred until the state grantor agency has approved the NOO.

### **Third Party Vendor Agreements**

- Third party agreements must be consistent with the appropriation language and the IGA;
- Third party agreements must include termination and non-appropriation clauses; and
- Grantees must adhere to the State of New Mexico Procurement Code as adopted by their local public body.

## **Requests for Payment**

- Grantee must use state grantor agency request for payment form provided in the IGA;
- Submissions must be accurate and complete, in numerical order and with appropriate backup documentation;
- Submit original pay requests in a timely manner, signed and notarized; and
- Meet year end expenditure deadlines established by Financial Control Division of the Department of Finance and Administration.

## **Projects Operated by Non-Governmental Entities**

- The New Mexico Constitution prohibits public bodies from donating to private entities;
- Grantee must own the capital asset to be purchased or improved with the project funding;
- If the capital asset will be privately operated, an operating and/or lease agreement between the grantee and non-governmental entity shall establish fair market value to be paid or the services to be provided, the credit generated per unit of service, and the monthly or quarterly reporting and accounting method to be used. A template is available from State Board of Finance (SBOF);
- SBOF will not issue bonds to fund a project until anti-donation compliance has been met;
- Confer with your attorney, or request assistance from the NM Municipal League or NM Association of Counties; and
- Certain leases require prior State agency approval pursuant to Sections 13-6-2 through 13-6-3 NMSA 1978.