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HOUSE BILL 493

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Cynthia Borrego

AN ACT

RELATING TO PUBLIC FINANCE; 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, institution, board, bureau, commission, district or
15 committee of state government.

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

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1 auditor's designee.

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

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

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

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

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

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

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

25 (3) in the case of a grantee that is not

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1 required to have annual audits conducted pursuant to the Audit
2 Act:

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

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

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

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

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

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

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1 (2) make a grant to a grantee.

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

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

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

17 C. use the appropriate capital outlay grant
18 agreement template developed by the department; and

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

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

24 A. prescribe procedures, policies and processing
25 documents to implement the funding criteria and grant

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1 management requirements set forth in Sections 4 and 5 of the
2 Public Finance Accountability Act;

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

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

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

12 SECTION 7. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2025.