



STRATEGIC REVIEW

No. 23-401

FROM: Nicole Kelley, City Auditor
Office of Internal Audit

DATE: February 23, 2023

SUBJECT: Albuquerque Police Department – Strategic Review of the Law Enforcement Retention Fund

EXECUTIVE SUMMARY

The Office of Internal Audit (OIA) conducted a strategic review to evaluate the City of Albuquerque’s (City) request for funding from the State of New Mexico (State) under House Bill 68 *Criminal Code Changes* (HB68) which was signed during the 2022 Regular Session.

The strategic review found that HB68 authorizes funding to be used for both the recruitment and retention of local law enforcement officers and House Bill 2 *General Appropriation Act of 2022* (HB2) appropriated \$50 million to be distributed to local law enforcement agencies for these efforts. The initial award letter and related grant agreement issued by the State only included language surrounding law enforcement recruitment efforts. However, the State subsequently amended the grant to require that funding recipients report on expenditures of eligible activities per HB68 recruitment and/or retention efforts. Further, although the City’s original request for HB68 funding did not specify officer retention efforts, it is the State’s position that HB68 funding can be utilized for the recruitment and retention of law enforcement officers, irrespective of whether the application upon which funding was granted did not provide for both.

BACKGROUND, SCOPE & OBJECTIVES, AND METHODOLOGY

Background

On March 9, 2022, Governor Michelle Lujan Grisham signed HB68. According to the Governor’s official press release, the legislation “Establishes programs to recruit and retain law enforcement officers, accompanied by \$50 million in the budget to establish an officer recruitment fund”. The synopsis of the final bill included in the Fiscal Impact Report prepared by the Legislative Finance committee for standing finance committees of the New Mexico Legislature states:

HB68 creates two new recruitment and retention programs for law enforcement officers. A program within the Department of Finance and Administration (DFA) would distribute funds to local law enforcement agencies for recruitment and retention stipends for officers. The bill directs DFA to establish criteria for the distribution of these funds, prioritizing increasing agencies’ investigative capacity. Additionally, HB68 creates the law enforcement retention fund to provide one-time retention differential payments to law enforcement officers equivalent to 5 percent of their annual salary on five-year intervals, provided they remain employed for one additional year. Officers would receive the payments at four, nine, 14, and 19 years of service.

On March 9, 2022, the Governor also signed HB2, which made general appropriations and authorized expenditures by state agencies. According to HB2, the appropriation to DFA includes \$50 million to distribute to local law enforcement agencies for officer recruitment or retention through fiscal year 2027.

Scope & Objective

The objective of the strategic review was to evaluate the City's request for funding from the State under HB68.

Methodology

Methodologies used to accomplish the objectives include but are not limited to the following:

- Analyzing legislation, award letters, and grant agreements.
- Interviewing City and State personnel.
- Independently verifying the City's request for and receipt of funding.
- Reviewing other pertinent documents.

Analysis

The Albuquerque Police Department (APD) submitted a request for HB68 funding through a response to a survey administered by the State of New Mexico's Department of Public Safety (DPS), which was available to all law enforcement agencies via an electronic portal. The survey titled "RETENTION AND RECRUITMENT" included various questions, including two that required a description of how the funds will be spent and the outcomes the agency plans to achieve. Based on OIA's inspections of the responses submitted by APD, which was provided to OIA directly by DPS, responses to these questions did not specifically speak to the City's retention efforts. Rather, the responses specified that the funds would be used for "a host of waiting projects", such as refreshing and increasing the vehicle fleet, procuring drones, funding positions and equipment for regulatory crime, communication upgrades, and relocation of the Real Time Crime Center.

A letter dated September 8, 2022, was received by the City from DFA Secretary Debbie Romero. The letter provided notice of the award of funding from the "Law Enforcement Fund". The award letter stated that the purpose of the funding is to cover the cost of hiring new officers and that the amount allocated to the City over three fiscal years was \$8.75 million. The award letter further stated that the City's allocation was determined by the responses provided to the DPS survey and that "funding was determined based on the total number of new law enforcement hires identified in the survey." Additionally, the award letter stated that a grant agreement outlining the requirements and the distribution process would be subsequently issued between the State and the City.

The original grant agreement (Appropriation Number 22-ZG1016-1), which was signed between the City and DFA on September 20, 2022, stated that \$8.75 million would be allocated over three years to hire up to 200 law enforcement positions and that the allocated funds would be disbursed 100 percent up to \$5 million the first year, 50 percent up to \$2.5 million the second year and 25 percent up to \$1.25 million the third year. The grant agreement stated that disbursement of funds would be made within five business days of receipt of the signed agreement and that the City would be required to submit quarterly reports on the hiring of law enforcement positions using the *Law Enforcement Recruitment Report Form*, which was included as Exhibit A of the signed agreement. Upon inspection, OIA noted that the *Law Enforcement Recruitment Report Form* omitted references to reports on the retention of law enforcement positions.



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The first \$5 million allocation of funding was distributed to the City by the State on September 23, 2022. On October 7, 2022, the City announced a new law enforcement recruitment and retention program. As part of the new program, APD officers that are eligible for retirement with 19 or more years of service, will receive a \$1,500 monthly incentive payment each month they remain with the department and should they remain for more than one year, the incentive payment increases to \$2,000 a month. Additionally, as part of the program, the City will increase coverage from 80 percent to 100 percent of eligible officers' health insurance premiums while in active service. According to City Administration, the new retention incentives will only be available to active sworn officers and will exclude the Chief and Deputy Chiefs. Further, under the new program, the City will pay \$2,500 to employees who recruit a lateral sworn officer to work for the City and pay \$2,500 to employees who recruit a cadet that becomes a sworn officer and successfully passes probation.

A letter dated October 14, 2022, was sent to New Mexico counties and municipalities by Donnie Quintana, Director of the Local Government Division, which stated the following:

The Governor's intent in signing House Bill 2 during the 2022 Regular Legislative Session, was for the hiring of additional officers statewide. The New Mexico Department of Finance and Administration appropriated funds dedicated to achieving this outcome. These funds were and always have been intended for your departments to be able to hire more law enforcement officers to make sure that our communities have the law enforcement presence they need.

In the event that you elect not to use this dedicated money to hire more officers, the funding can be utilized in accordance with the provisions of HB 68.

A letter dated October 25, 2022, was sent to DFA Secretary Romero and signed by Lawrence Rael, the City's Chief Administrative Officer. The letter expressed appreciation for funding awarded to the City and acknowledged, among other things, the executed grant agreement related to the "Law Enforcement Retention Funds (LERF)" of \$8.75 million over a three-year period and that the first-year allocation of \$5 million had been received by the City.

On December 12, 2022, OIA spoke with Secretary Romero and her team. According to Secretary Romero, the intent of HB 68 is to increase the number of law enforcement officers in the state. To this point, a net increase can only be achieved if law enforcement agencies are able to recruit more new officers than they lose to retirement. According to Secretary Romero, HB68 allows for funding to be used for both the recruitment and retention of local law enforcement officers; however, the state received feedback from many local agencies that the award letter and grant agreement omitted language surrounding retention efforts. Based on the feedback received, all grant agreements were subsequently amended to include language surrounding retention, as well as recruitment.

On October 18, 2022, DFA provided the City with an amended grant agreement for funding from the "Law Enforcement Fund". The grant agreement was amended to state that the \$8.75 million would be allocated over three years to be utilized in accordance with the provisions of HB68. Additionally, Exhibit A of the amendment was revised to require the reporting on expenditures of eligible activities per HB68 recruitment and/or retention efforts. According to the instructions included with the amended grant agreement, "**The Grant Agreement is not final until all signatures are completed.**" As of January 26, 2023, the City has neither expended nor appropriated the \$5 million in HB68 funding received. On January 23, 2023, the City's Finance and Government Operations Committee voted to send the resolution to City Council for final action.

Conclusion:

The strategic review found that HB68 authorizes funding to be used for both the recruitment and retention of local law enforcement officers and HB2 appropriated \$50 million to be distributed to local law enforcement agencies for these efforts. The initial award letter and related grant agreement issued by the State only included language surrounding law enforcement recruitment efforts. However, the State subsequently amended the grant agreement to require that funding recipients report on expenditures of eligible activities per HB68 recruitment and/or retention efforts. Further, although the City's original request for HB68 funding did not specify include officer retention efforts, it is the State's position that HB68 funding can be utilized for the recruitment and retention of law enforcement officers, irrespective of whether the application upon which funding was granted did not provide for both.

While funding related to HB68 has been neither expended nor appropriated by the City as of January 26, 2023, City management is responsible for ensuring these funds are managed properly and used in compliance with laws and regulations; programs are achieving their objectives; and services are being provided efficiently, effectively, and economically.



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