

State Capital Outlay for Non-Profit Organizations

What is this meeting for?

The City wants to take this opportunity to explain how the State Capital Outlay process works for nonprofit organizations—so you can get your requested projects delivered as smoothly and quickly as possible. Much of this process is driven entirely by the State, and we have no control over their decisions, but we can help you understand what they typically look for and how to prepare your project for approval.

We'll also walk through the City's Fiscal Agent (FA) application, since partnering with the City is how your organization becomes eligible to use State Capital Outlay funds.

Using the City as your Fiscal Agent costs you nothing, and it comes with significant benefits. You choose the location, the equipment, and the broad design direction; the City handles the rest—quotes, bidding, procurement under local law, contractor selection, construction management, permitting, payments, auditing, and overall compliance. Essentially, we take on the heavy workload and liability on your behalf.

Just to be clear:

We cannot and do not speak for the State—especially on specific legal or eligibility questions. If the State gives you guidance that differs from anything in this presentation, the State's answer ALWAYS supersedes ours.

We are also not here to provide legal or financial advice about other funding sources, or to explain how other organizations may secure or manage funding. We can only speak to our processes and what the State requires from us.

30,000' Overview

- Apply for City to be your Fiscal Agent
- Enter Project online to the state
- Legislator(s) choose to fund part/all of request
- State Bill is passed
- State ensures project meets State Law and Anti-Donation clause before funds certified for release
 - Org & City work with State to get funding certified
- State gives City funds
- City submits Notice of Obligation
- City purchases & provides equipment requested by Org
- Org provides public services in lieu of rent/lease payments

Key Takeaways

- No project will receive any funding until the State Department of Finance and Administration (DFA) and the State Board of Finance (SBoF) certify that the project meets State law.
- Certification ALWAYS requires a Use Agreement/Contract with a City Department.
 - And remember—they have over 4,000 projects to review every session.
- Stay in communication with your sponsoring City Department throughout the entire process. Clear, timely communication prevents many of the delays, surprises, and roadblocks that nonprofits often experience with Capital Outlay projects.

- Under State law, your organization cannot receive Capital Outlay funds directly. The City receives the General Fund appropriation and spends it on your behalf, using the City's required procurement processes. This ensures compliance with City purchasing laws and the Anti-Donation Clause.
- CIP is the liaison between the City and the State for all Capital Outlay projects. If CIP doesn't know about your project, or doesn't receive your project information, it can take a very long time to get your funds released. We manage and track 250+ projects each cycle, so linking your project to your organization early is critical.

Things to Remember

DFA stands for the **State Department of Finance and Administration**, and **SBoF** is the **State Board of Finance**.

You will hear these two names together throughout this presentation because **they are the State entities that determine and certify whether a project meets State law**. The City has **no authority** over their decisions. No project receives **any funding** until DFA/SBoF issues formal **certification**.

The City genuinely **wants** to help you secure these funds quickly so you can carry out the services that help our community—feeding people, housing people, training people, and more. But we must follow **State law** at every step in the process. The rules and cautions we share today are a **non-exhaustive list** of what DFA and SBoF typically check before they will release funds. They are **NOT requirements** you must meet in order for the City to act as your Fiscal Agent.

For the City to serve as your FA, we simply need **information** about your project. If we question something during the FA process—especially related to Use Agreements—it is not to slow you down. We are trying to clear up anything that might become a **problem later** during State review. Our goal is to help you succeed. This presentation is meant to help you understand what the State tends to look for, so you can plan ahead and keep the entire process smoother for everyone.

You are asking the **State** to provide **Capital Outlay funding to the City**, and the **City** spends that funding **on your behalf**. Your organization does **not** receive the money directly and does **not** make any purchases. The City receives the General Fund appropriation, makes the purchases using our procurement process, and then your organization provides services back to the City under your **Use Agreement/Contract**.

“Capital Funds” can have many meanings depending on who uses the phrase.

This presentation refers **only** to public Capital Outlay funding from the **State of New Mexico** or **City of Albuquerque**—public funds spent by a municipality to further the public interest. In the private sector, the phrase “capital funds” or “capital budget” may refer to large, one-time purchases or projects—renovations, equipment replacements, expansions, etc.—but completely different laws apply there. In our context, “Capital Outlay” means funding intended for **long-term, non-recurring, physical investments** such as:

- building construction or expansion
- major renovations
- equipment, vehicles, furnishings
- infrastructure
- long-term community assets

And because these are **public dollars**, they come with strict rules, oversight from DFA/SBoF, procurement requirements, and Anti-Donation protections.

For Example

Organization “KindFolks” uses the City as their Fiscal Agent to request \$1,500,000 in Capital Funds from the State “to furnish and equip a teen homeless shelter, including information technology, in Albuquerque in Bernalillo County”

The bill passes, allocating KindFolks \$285,000. DFA/SBoF contacts the City for information to ensure State Law is met.

KindFolks produces this information to the City, including a use agreement with the City’s Dept. of Health, Housing, and Homelessness (HHH) through the Department of Municipal Development (DMD).

- This Agreement specifies that KindFolks will utilize City owned equipment in the operation of a teen homeless shelter, and will provide services to the City in lieu of rent, as provided in their Contract. DFA/SBoF agrees and certifies the project.

This money is released to the City through a Grant Agreement. HHH then coordinates with KindFolks, purchases equipment, and pays City contracted companies for the necessary equipment using those funds. KindFolks then begins utilizing the equipment while providing the services specified in their Use Agreement.

Notes

Because the City Department that holds your Use Agreement is the one making all purchases, they must follow **their own purchasing rules**. And every City department has its own version of procurement procedures they must comply with.

You may have a quote from a contractor or vendor you prefer, but the City **must** use City-contracted providers. These vendors have already been procured through legally required processes such as:

- publicly advertised competitive bidding,
- required bonding and insurance,
- quality and safety standards,
- compliance with State-mandated wage requirements,
- and long-term contract pricing.

These rules are not flexible. They exist to ensure that public funds are spent transparently, fairly, and in full compliance with the law.

The information we’re sharing today about what Capital Outlay funds **can** and **cannot** be used for is meant to help guide you as you shape your project and write your **legislative Scope**. Understanding these boundaries early will help prevent issues later.

Even when a department is supportive of your request, the City still conducts **internal auditing and compliance reviews**. Very rarely, a purchase may be denied. That typically happens only if:

- the request falls outside the **legislative Scope**, or
- the organization has potential **Anti-Donation Clause violations** due to misuse of City property.

The City’s goal is to make sure projects are done **well** and **correctly**. We do not profit from coming in under budget; our obligation is to use public funds responsibly. That sometimes means a purchase may cost slightly more under a City contract because we require:

- higher-quality materials,
- longer-lasting equipment, or
- more robust warranties and standards.

But we also frequently benefit from **volume pricing** and **contractual discounts**, which can reduce costs overall.

More Notes

Once the Legislature passes a capital bill and the Governor signs it, the project doesn't move forward until **DFA/SBoF certifies** that it meets State law. After certification, the State issues the project's **budget allocation**—typically in **July or December**, but now based on General Fund availability, **not** tied to a bond sale.

After funding is issued: **You now have 1 year to create a “substantial binding obligation” for at least 10% of the award.** A “substantial binding obligation” means the City has submitted a **Notice of Obligation (NoO)** to the State and DFA has approved it. If the City does not meet this 10% obligation within one year, any **unobligated** portion is at risk.

- **State grants for equipment revert in 2 years.**
- **State grants for construction, design, or renovation revert in 4 years.**

Since we expect the 2026 Capital Outlay to be funded with the State's General Fund, the clocks start at the beginning of the fiscal year **of fund issuance**, NOT from a bond sale like in years past. However, we don't know for certain that your capital outlay project will be funded solely through general funds. We will know for certain after the bill is signed. If your project is funded with severance tax bonds or general obligation bonds, then you **must encumber/obligate five percent (5%)** of Project funds within six months of bond issuance.

Additionally, the long-standing requirement still applies for both general fund and bond sales: **85% of the award must be expended within the final six months before its reversion date.** If the City does not meet this requirement, **all remaining funds revert.** This applies to both new awards and previously unspent funds from older phases of your project.

If a project cannot be completed in time, the sponsor may request **reauthorization**, but this is never guaranteed and must be approved by the Legislature.

If DFA/SBoF has not certified your project by the end of the second fiscal year after passage, the authorization becomes void.

Because the City conducts all purchasing and contracting—and must comply with strict procurement laws—the process often takes longer than a private business might expect. It is critical to:

- plan your project timeline realistically,
- maintain close communication with your sponsoring City Department,
- and be aware that nothing may begin until DFA/SBoF certify the project.

All timing rules—including obligation deadlines, reversion periods, and certification limits—are found in the first pages of each session's Capital Outlay bill. *All of these stipulations regarding timing are in the first 10 or so pages of the bill. The bill language can change year to year—Read them!* You can access capital outlay bills at: https://www.nmlegis.gov/Legislation/BillFinder/Capital_Outlay

Timelines

Year-round: Coordinate with your associated City Department regarding your Organization's upcoming projects and capital requests.

Dec 10th 2025 5 p.m. – City's Deadline for Fiscal Agent Applications to josh@cabq.gov. City Fiscal Agent Applications online at <https://www.cabq.gov/municipaldevelopment/programs/state-capital-outlay-for-non-profits>

Dec 12th 2025 3 p.m. – Deadline for Online Capital Outlay Request entry. **Be sure your project is entered online by this date!** Link for State Capital Outlay Request Application <https://www.nmlegis.gov/CapitalOutlayWeb/Default>

Requests must be made in Legislative Language. For assistance with the form, call the States' LCS Capital Outlay Division at 505-986-4600

Reauthorization request forms are available online at [https://www.nmlegis.gov/Publications/Capital Outlay/capital outlay reauth form.pdf](https://www.nmlegis.gov/Publications/Capital%20Outlay/capital_outlay_reauth_form.pdf)

February 19th – Session Ends

March 11th – Deadline for Governor action – may Line-Item Veto

Questionnaires and follow-up by DFA/SBoF

Grant Issuance or Bond Sales – Typically June and December

Sponsors and Legislators have a different set of Deadlines than we do, so if you've missed a deadline, a Sponsor or Legislator **may** be able to help.

12 months after issuance or 6 months after bond sale: Notice of Obligation (NoO) for at least 10% (5% for bonds) must be issued, or funds are reverted.

Three Years after sale (6 months prior to reversion date): 85% of funds must be spent, or all remaining funds are reverted. This is 2 years for Furniture, computers, and other small, non-attached items. This may impact your outlay, so be cognizant of it. This is something the State decides, not the City.

Main Rules

Again, these are **STATE** rules for the Capital Outlay process. DFA/SBoF will be checking to make sure your project meets these requirements before they will certify any funds to be released.

The Non-Profit Organization (NPO) must have an active Operating/Use Agreement/Contract with the City of Albuquerque before the project can move forward. This agreement needs to specify the services your organization will be providing to the City **in lieu of rent** for the requested items.

Even if the bill passes and includes funding for your project, those funds **WILL NOT** be distributed to the City until DFA/SBoF certifies that the project meets State law. This will require you to submit supporting documentation, including an active Use Agreement.

Any and all items procured with these funds belong to the **City of Albuquerque**, even after the expiration of the Use Agreement/Contract.

Building renovation/improvement funds may only be used on a building **owned by the City of Albuquerque**. The State will not agree that we “own” an HVAC unit, roof, boiler, etc., if it is attached to a building we do not own.

All Capital Outlay funds, items, and projects must be used **in furtherance of the services** contracted by the City of Albuquerque.

For example: if you are contracted for meal delivery, you cannot purchase a big-screen TV or a run-around vehicle for administrative purposes. IT can also be tricky, so be sure to specify it clearly in both your Scope and Scope of Services.

Capital funds may only be used for the items, project type, and locations defined in the final legislation as passed. Your legislative [“Scope” language applies](#).

Procurement and Anti-Donation

The two main hurdles to clear for purposes of the Use Agreement/Contract (on the City side) are **Anti-Donation** and **Procurement**.

Procurement refers to the rules the City must follow in order to buy goods or procure services. These rules include competitive bidding, use of City-contracted vendors, insurance and bonding requirements, wage compliance, and all other legally required processes.

Anti-Donation refers to the prohibition in the New Mexico Constitution that prevents the government—including the City—from giving money, property, or anything of value to any private entity, even a nonprofit. To read this section of the NM Constitution, [Ctrl + click here](#).

This means that if the City provides anything of value to your organization (through the Capital Outlay process), your organization must provide **services of equal value** to the City in exchange. This is a constitutional requirement and cannot be waived. This is **why** the Use Agreement exists—so the exchange of value is documented and legally compliant.

Here are a few real-world situations that would violate the Anti-Donation Clause:

- **Using City-owned, State-funded equipment for private or unrelated purposes.**
For example, using City-purchased kitchen equipment or vehicles to support a private fundraiser, a for-profit event, or an activity not included in your Scope of Services. Because the City receives no value in return, this becomes an Anti-Donation violation.
- **Using Capital Outlay funds to improve a privately-owned building.**
Installing a roof, HVAC system, or other permanent building improvements on a building your nonprofit owns increases the value of private property. The City cannot “own” these improvements, so this is prohibited.
- **Failing to provide the services required in your Use Agreement.**
If the City purchases equipment for your organization, but your organization does not deliver the contracted services (such as client hours, meal service, volunteer hours, reporting, etc.), the City has given value without receiving value. In this case, DFA may require the **City to repay the funds**, and the City would pursue breach of contract.

These examples are why the Use Agreement must be clear, accurate, and enforceable.

- ❖ The rules for professional/technical contracts can be found at **§§ 5-5-1 et seq. ROA 1994**, and the rules for social services contracts are located in the **Department of Health, Housing, and Homelessness [Contracts Procurement Rules](#)**.

City Fiscal Agent Application

<https://www.cabq.gov/municipaldevelopment/programs/state-capital-outlay-for-non-profits>

Return to josh@cabq.gov by 12/10/25 @ 5pm Use

Subject Line 2026-1 FA *yourorgname*

Applications are sent to Sponsoring Dept and Mayor's Office for approval.

Application – Page 3

Legislative Language used, this is the “Scope” of the project online when you enter at <https://www.nmlegis.gov/CapitalOutlayWeb/>.

For the legal definitions of “scope words” [Ctrl + click here](#). This is how NM courts will define your project, and the rules the City will use to determine what we may or may not do with the funds.

Just be aware that the less specific your request, the more likely it will be under heavier scrutiny for Anti-Donation. i.e. “To acquire, equip, and otherwise provide for meals for the homeless.” Is vague about what you’re actually planning on buying/doing with the funding. “To acquire and equip for a kitchen to provide meals for the homeless.” Is a better request.

Using Capital funds for anything outside of the language in the final bill, as signed by the Governor, is a violation of State Law. Accordingly, the City may reject your request if it is deemed out of scope, but then work with you to try and come up with a way to make things work legally.

Note that the scope of your project MAY change between your entry online and the final bill with neither your approval nor notification. This may be the State clarifying words you used that aren’t legally defined or the Governor vetoing certain pieces, like striking the word “land” from your request. **The City will not change your scope without your permission.**

Scope vs Scope

The Scope of your project, as defined by the spending bill “legislative language” is NOT the “Scope of Services” in your Use Agreement with the City.

The Scope of your project defines what the Capital Outlay may legally be used for. This is what is placed in your City FA Application and the Online Capital Outlay Portal. The scope must begin with “to” (lowercase t), and end in “...in ABQ in Bernalillo County” (no period) or appropriate location. It’s possible LCS will add this automatically. They also have been known to “clarify” (change) scopes without notifying us.

i.e. to purchase, modify, and equip hot food delivery trucks in ABQ in Bernalillo County

The Scope of Services in your Use Agreement is the description of the services that you will provide for the City in return for use of the equipment/facilities purchased by said Capital funds.

It’s important that the Scope of the project and your Scope of Services are related. The State is going to feel that there’s an Anti-Donation violation in approving the installation of a kitchen for a non-

profit that has a scope of services in their use agreement only to provide tutoring. While providing meals with tutoring may be a good thing, it has not been identified in the use agreement. You're looking to expand services, adding value to your cause, but have not identified how that will impact the funding to the City, nor do you have a use agreement to do so.

i.e. KindFolks shall shelter, feed, and support homeless teens, up to 5 at a time, at the rate of \$30/person/day for the Family and Community Services Department of the City of Albuquerque. Feeding shall be 3 hot meals, support shall be access to social services, behavioral health, and tutoring...

Application Pg 4

ALL previous Capital Outlay funding requests that have been signed into law by the Governor AND are still in process of being expended or approved. Even if it's still awaiting certification by DFA/SBoF, note that here, and what DFA/SBoF are awaiting.

Do not include projects/funding that have been completed or reverted, only outstanding funds should be listed here.

The Online Application

Once you check the box agreeing to the service, it will automatically take you to the form.

This is mostly self-explanatory and they link an excellent instruction sheet everywhere on the page, but here are a few things to know.

Line 1 – Leave Blank – Unless it's an ongoing long term project that you actually have and know the ICIP.

Lines 2-5 - Your information. They have ours from Fiscal Agent on Line 6.

Line 6 – Albuquerque

"Albuquerque" in their system means "City of Albuquerque". If the question refers to location, it's ABQ City Boundaries. If it's referring to an entity, it's the Municipal Government. If it is not the named City, that is denoted, such as Bernalillo and Bernalillo County.

Line 7 – Albuquerque (not your org, LCS will change it)

Line 8 – Albuquerque

Line 9 – Albuquerque

Unless outside City limits, then Bernalillo County (or appropriate location)

Line 13 – This is the Scope of your project

to acquire, plan, design, build...in ABQ in Bernalillo County

Remember the lowercase t in "to" at the beginning, and lack of period at the end. That's what they ask for so it plugs straight in to the legislation without needing editing. Be sure to replace ABQ and Bernalillo County with the appropriate information if different.

Line 14 – Purchase

Line 24 – B.

At the bottom is a blue button to submit the project. It will give you the option to print the certificate,

which will pop up a certificate in a window, and give you the option to download it as a PDF. Please do so!

Email the City

We use the **LCS Project ID** to track all projects. There are over **4,000 projects** in the Capital Outlay bill and more than **300 assigned to the City**. Having your exact ID number turns what would otherwise be a 20-minute search—and sometimes phone calls to the State—into a **30-second lookup**.

When we don't know that a specific project line "belongs" to one of our nonprofits, it can cause **months of delay** while we try to track it down. If your project is one of those, it will delay your funding.

We prefer to receive the **entire certificate in PDF**, since we can copy/paste from it into our tracking spreadsheets and it includes all the necessary contact information. But even sending **just the LCS Project ID** is a massive help.

Please don't forget to email this to us—it makes a huge difference in how quickly we can get your project moving.

DFA/SBoF Questionnaires and Follow-up

After the bill has passed, review the bill to make sure the **scope language did not change** and take note of the **final allocated amount**.

As DFA/SBoF begin reviewing the projects, they will email the City and/or your organization to request additional information. All responses will be submitted through the Capital Projects System:

<https://platform.dfa.nm.gov/login.html>

Typical questions ask for:

- more detail about the project,
- what exactly will be done,
- the current condition of the facility or equipment,
- and any clarifying information needed to verify compliance with State law.

Note the 400-character limit.

If your response exceeds this limit, the State will not receive it. Please be concise. This is not the place to advocate for your mission or describe your organization's history. Keep it strictly factual.

Example of a concise, acceptable response:

"Existing roof at 1234 Main St. 87111 has large leaks. Funds will hire roofing contractor to tar entire roof and repair or replace structural damage caused by leaks." (That alone is almost half of the 400-character limit.)

The City will assist you in preparing these responses.

DFA/SBoF will also request documentation to prove the project meets State law. One of these required documents will be your **Use Agreement or Contract** with the City.

Until **DFA/SBoF certifies** the project, **no funds will be released**. They will not certify your project until they determine that it fully complies with State law.

The Wait

Even if the bill passes and includes funding for your organization, those funds **WILL NOT** be released until **DFA/SBoF** confirms that the project meets **State Law**. This is entirely a State-driven process, and remember—they typically have **over 2,000 projects** to work through each session.

City Fiscal Agent (FA) approval does NOT guarantee State certification.

We cannot control the State's decision-making, nor can we determine what DFA/SBoF will approve or deny. During the FA process, we may question parts of your project that appear unlikely to pass State review—but this is only to help you understand what issues may arise, not to deny support. The City almost always approves FA requests because we want these community services to happen.

However, **passage of the bill** does **not obligate** the City or its departments to form a Use Agreement/Contract with your organization.

We will always act in good faith to make projects work, but if we cannot come to **clear, legal, and enforceable terms**, we may decline to enter into a contract. Past Anti-Donation issues or highly questionable actions by an organization may also make us reluctant to form a contract, because as the Fiscal Agent, **the City is liable for your compliance**.

You will need to be **proactive but patient** throughout this process—especially in a heavy legislative year. The City will answer questions as best we can, but ultimately it is **your organization's responsibility** to know, determine, and meet DFA/SBoF requirements.

Funds are released through **General Fund allocations**, and occasionally bond sales. DFA/SBoF will only release funds **after certification**—and certification does not happen until **all State requirements are met**.

City departments that create Use Agreements and manage State grants have **many dozens of these projects to process and very limited staff**, with no administrative funding provided.

Because of that, we prioritize organizations that are **ready**, engaged, and actively working with us.

Example:

- **NPO 1** has been in discussions with the City for months, working through their Scope of Services, service exchange, and Use Agreement details. Once the bill passes, they immediately reconnect with City staff and finalize their contract. Their project is likely to be certified **first**.
- **NPO 2** applied for Fiscal Agency months ago but has had no contact with the City since. They wait for the City to reach out. Their project may take **a year or more** to begin, and certification may not occur until **two years or more** after passage.

This is not favoritism—this is workflow reality. We simply cannot move all projects forward at once. Readiness and communication determine your place in line.

The best way to move your project forward is to:

have your materials and Scope clearly defined **before** the session begins,

- be responsive to City and State requests,
- communicate openly after the bill passes, and
- make sure your Use Agreement can be finalized early.

To give you an idea of the workload:

It is currently November, and we are still receiving 2021 grant agreements to execute.

Being prepared and staying engaged truly makes the difference.

Art in Public Places

The State of New Mexico has a long-standing requirement that **1% of most Capital Outlay appropriations be set aside for the Art in Public Places (AIPP) program**. This applies to **nearly all State Capital Outlay projects**—including those requested by nonprofit organizations.

The important point to understand is that the **AIPP deduction comes out of your project's allocation**. The amount listed in the Capital Outlay bill is **not** the amount your project will ultimately receive for purchases.

The State automatically removes 1% of your appropriation **before** funds are issued to the City.

Example

If your project is awarded **\$120,000**, AIPP deducts 1%—that's **\$1,200**—leaving **\$118,800** available for your actual project purchases.

This deduction is **not optional** and **cannot be waived**.

The City has **no control** over the requirement or how the funds are used. AIPP applies to **City projects as well**, including the City's General Obligation Bond program, so this is not something unique to nonprofits. We follow the same rule on our own capital projects.

How AIPP Works

- The 1% is collected and pooled by the State.
- The State administers and manages the AIPP program—not the City and not your organization.
- The funds are used to commission public art installations throughout New Mexico.
- Your project does **not** receive art or artwork directly; the funds go to the statewide program.

Key Takeaways for NPOs

- The amount printed in the bill is **not** the amount you can spend.
- AIPP automatically reduces your available Capital Outlay by 1%.
- There is nothing the City or your organization needs to do—AIPP is applied behind the scenes.
- When planning your Scope and budget, remember your City-available amount will always be **1% less than the amount listed in the legislation**.

Thank You!

Thank you for taking the time to read through this guide. We hope it helps you better understand the State Capital Outlay process and what to expect along the way. Please keep this document handy—refer back to it whenever questions come up or when you're preparing your next Capital Outlay request. We look forward to working with you and supporting the important services you provide in our community. If you have any additional questions, please email josh@cabq.gov