NEW MEXICO STATE TRANSPORTATION COMMISSION
New Mexico Department of Transportation
District Three Auditorium
7500 Pan American Freeway NE
Albuquerque, New Mexico 87199
March 16, 2017
8:30 am

Meeting Agenda

1) Call to Order: Ronald Schmeits, Chairman
   a) Pledge of Allegiance

2) Approval of Agenda: Ronald Schmeits, Chairman

3) Approval of Minutes: Santa Fe Meeting January 18, 2017

4) Introductions: Ronald Schmeits, Chairman
   a) Elected Officials
   b) Commission Members
   c) NMDOT Executive Staff

5) Welcoming Remarks: The Honorable Richard J. Berry, Mayor, City of Albuquerque

6) Elected Officials Delegations Presentations:
   Greater Gallup Economic Development Corporation, “Carbon Coal Road/4CITE
   Transportation Study”

7) Public Comment:

8) District Three Presentation & Employee Recognition: Kenneth Murphy, P.E., Acting
   District Three Engineer, NMDOT

9) STC Workshops:
   a) Finance Committee- Ron Schmeits, Chairman
      2. FY17 Budget Adjustment Requests (BAR’s) No. 16, 17, 18, and 19: Mallery
         Martinez, Acting Budget Director, NMDOT
      3. NMFA Monthly Report: Mark Lovato, Investment Manager, NMFA
      4. Refinance Update: Marcos B. Trujillo, Project Oversight Director, NMDOT
      5. OIG FY17 Status Update: Jeff Canney, Inspector General, NMDOT
b) Policy Committee - Kenneth White, Chairman

1. Update on Rulemaking Action for Amend or Repeal and Replace Rule 18-28-3 NMAC, Transportation and Highways, Highway Contracting and Bidding, Selection of Committee for Qualifications Based Proposals: Armando M. Armendariz, P.E., State Construction Bureau, NMDOT


10) Staff Briefings:
   a) Secretary Report: Tom Church, Cabinet Secretary, NMDOT
   b) FHWA Report: J. Don Martinez, Division Administrator, NMDOT

11) Action Items:
   a) Approval of FY17 Budget Adjustment Requests (BAR’s): Mallery Martinez, Acting Budget Director, NMDOT
      - BAR No. 16 Project Design and Construction, Federal Highway
      - BAR No. 17 Highway Operations, US 550 Warranty
      - BAR No. 18 Modal Traffic Safety Driver Improvement Project
      - BAR No. 19 Modal Aviation Division

   b) Approval of Initial Rulemaking Action for Amend or Repeal and Replace Rule 18-27-5 NMAC, Transportation and Highways, Highway Construction General Provisions, Contractor Prequalification Rule: Armando M. Armendariz, P.E., State Construction Bureau, NMDOT

12) Commissioner’s Comments

13) Adjournment
Tab 1-2
Call to Order & Approval of Agenda
1. Call to Order: Ronald Schmeits, Chairman
   a) Pledge of Allegiance

2. Approval of Agenda: Ronald Schmeits, Chairman
Tab 3

Approval of Minutes
The New Mexico State Transportation Commission (STC or Commission) held a regular meeting on January 18, 2017, at the New Mexico Department of Transportation, General Office, Santa Fe, New Mexico. Chairman Schmeits called the meeting to order at 8:30 a.m. Commissioner Mathews led meeting attendees in the Pledge of Allegiance.

Approval of the STC Agenda

Chairman Schmeits asked for a motion to approve the STC agenda; Commissioner Mathews made a motion to so approve; Commissioner Sepich seconded; motion carried unanimously.

Approval of the STC Minutes

Chairman Schmeits asked for a motion to approve the minutes of the regular STC meeting of October 6, 2016; Commissioner Mathews made a motion to so approve; Commissioner Sepich seconded; motion carried unanimously.
**State Transportation Commissioners Present:**

Kenneth White, Secretary, District One  
David Sepich, Commissioner, District Two  
Keith Mortensen, Commissioner, District Three  
Ron Schmeits, Chairman, District Four  
Butch Mathews, Vice-Chairman, District Five  
Jackson Gibson, Commissioner, District Six

**NMDOT Staff Present:**

Tom Church, Cabinet Secretary  
Anthony Lujan, Deputy Secretary  
Loren Hatch, Deputy Secretary  
NMDOT Staff

**District Five Presentation and Employee Recognition**

Paul Brasher, P.E., Acting District Five Engineer, NMDOT, gave a presentation regarding District Five activities, during which he discussed the District’s various projects and maintenance accomplishments. He also reported on the District’s Employee Recognition Program and acknowledged 2016 award recipients, Mark Martinez, Risk Management Supervisor, as Employee of the Year; the Dog Head Fire Crew as Crew of the Year; and the Vactor and Welding Crew, as Best Practice Program winner for the vactor wheel.

**General Office Employee Recognition**

Anthony Lujan, Deputy Secretary, NMDOT, acknowledged the 2016 General Office Employee Recognition Program award winners, General Services Division, Buildings and Grounds Crew as Section of the Year; and Environmental Analyst, James Hirsch as Employee of the Year.
Workshop Agenda

Finance Committee

Monthly Financial Report

Michael Friel, Accounting Services Director/Chief Financial Officer, NMDOT, presented the NMDOT operating budget and financial report as of January 3, 2017. The current adjusted budget for Programs and Infrastructure is $537.5 million; Highway Operations, $233.8 million; Business Operations, $42.2 million; and Modal, $69.8 million. There is $189.4 million in encumbrances, and expenses of $266.6 million. Mr. Friel indicated that NMDOT is in good financial standing at this time, and, regarding the current vacancy rate within NMDOT, he reported that Project Design and Construction is at 21%; Highway Operations, 12.2%; Business Operations, 17.7%; and Modal, 18%.

Mr. Friel presented FY17 Budget Adjustment Request (BAR’s) Nos. 13, 14, and 15. BAR No. 13 for Modal is required to increase the budget authority by $6.5 million for the Ports of Entry initiative partnership with the Department of Taxation and Revenue and the Department of Public Safety/Motor Transportation Division. BAR No. 14 for Modal is required to establish budget authority in Category 300/Contractual Services for the National Highway Traffic Safety Association Fund. BAR No. 15 for Modal is required to establish budget authority in Category 300/Contractual services for Traffic Safety Education and Enforcement.

FY18 Road Fund Forecast

Laura Bianchini, Economist, NMDOT, presented the FY18 Road Fund Forecast as of January 2017. The forecast is one of two annual forecasts of NMDOT revenues. FY18 Road Fund revenues are decreased by $8.5 million from the prior estimate published in July 2016,
representing a 2.1% reduction. FY17 Road Fund revenue is now expected to be $5 million below the January 2016 legislative budget estimate, or 1.2% less. The decreases in revenue are mainly due to downward revisions in Motor Vehicle Registration and Special Fuels revenues. Weight distance revenue is forecast to grow around 3-3.5%, while gasoline revenue is expected to be flat. The forecast for FY18 is $2.2 million, or 0.6% above the budgeted January 2016 estimate for FY17. The overall Road Fund growth rate is expected to be slightly negative in FY17, and to stay around 1% in subsequent years.

**New Mexico Finance Authority (NMFA) Monthly Report**

Mark Lovato, Investment Manager, NMFA, provided an update regarding NMDOT’s portfolio funds under NMFA management. As of December 31, 2016, the balance in the portfolio was $98.5 million, a net decrease of $32.7 million from November. The change is attributed to debt service payments of $206.7 million, no draws this month, plus total earnings of $26,412, and $16.1 million in debt service set asides, and a deposit from the 2006 escrow account of $157.9 million. The escrow payment paid off the 2006B bond series. There is 53% in the project account, of which $15,054 is in the 2010A bond fund account, $52.1 million in the 2014A Highway Infrastructure Fund (HIF) account, 47% in debt service accounts, and less than 1% in the arbitrage rebate account. A 5 year arbitrage report was completed on the 2006 bond series, of which a payment of $133,196 was made to the Internal Revenue Service. On December 31, 2016, the balance in the taxable line of credit at RBC was $50 million for collateral needs, and the balance in the taxable line of credit at Wells Fargo was $50 million for the BNSF Escrow account. Mr. Lovato also provided a breakdown regarding NMDOT/NMFA outstanding debt service.
Public Financial Management (PFM) Quarterly Debt Portfolio Report

Peter Shellenberger, Managing Director, PFM, and Christine Choy, Senior Managing Consultant, PFM, presented the quarterly Debt Portfolio Report and Debt Management Update, which included detailed information regarding the latest developments in the financial markets, the economy, interest rates, NMDOT’s current debt and swap portfolio, and potential financing opportunities.

FY16 Financial Statement Audit Report

Raul Anaya, Principal, and Andres Gamez, Senior Associate, Clifton Larson Allen, LLP (CLA), presented the NMDOT FY16 Financial Statement Audit Report. They discussed CLA’s unmodified Financial Statement Audit Opinion and unmodified Single Audit Opinion, the audit process, findings, and recommendations. NMDOT had a total of four findings in its FY16 audit.

FY16/FY17 Financial Hardship Match Waiver Program - Local Government Road Fund (LGRF)

Clarissa Martinez, LGRF Statewide Coordinator, NMDOT, reported regarding the FY16/FY17 LGRF Financial Hardship Match Waiver Program. She explained that the program was created to help county and municipal governments with a 25% funding match in instances where hardship exists. In October 2016, NMDOT sought STC approval for certain eligible local government projects; however, match waivers for Village of Santa Clara, City of Santa Rosa, Village of Wagon Mound, Village of Eagle Nest, and Village of Willard projects were not included in the original request. This occurred because those projects did not meet the eligibility requirements set by the Department of Finance and Administration (DFA). Upon review, DFA determined that the original submissions made by the aforementioned local governments were
lacking adequate financial information. DFA subsequently performed a second review and determined that the subject projects did, in fact, qualify for the program.

**Infrastructure Committee**

**NM 195P - Road Transfer to the City of Elephant Butte**

Trent Doolittle, P.E., District One Engineer, NMDOT, discussed the proposed transfer of NM 195P (Rock Canyon Road) to the City of Elephant Butte (Elephant Butte) under the provisions of Commission Policy 62, *Additions to and Deletions from the State Highway System*. He explained that Elephant Butte contacted the NMDOT District One Office regarding assuming jurisdictional and maintenance responsibilities for NM 195P from its junction with NM 195 to the city limits. The Elephant Butte City Council passed a Resolution (No. 16-17-107) on July 20, 2016, in support of the road transfer and entering into an official agreement with NMDOT. District One is in favor of the transfer because it will reduce the lane miles that District staff is responsible to maintain within the Williamsburg Patrol area. Mr. Doolittle requested the STC’s conditional approval of the transfer, pending receipt of all required signatures on the formal Road Transfer Agreement between NMDOT and Elephant Butte. He explained that it is Elephant Butte’s preference not want to wait until the March 2017 STC Meeting to request the transfer because of certain upcoming civic events.

**Santa Teresa Border Area Transportation Needs Assessment and Strategic Plan (STBAT)**

Mario Juarez-Infante, Wilson and Company, presented the Santa Teresa Border Area Transportation Needs Assessment and Strategic Plan. He introduced the STBAT project team, which includes both NMDOT staff and Wilson and Company staff. He outlined the goals of the
project, the area studied, existing conditions, the team’s efforts, as well as findings, recommendations, implementation and strategic plans.

**Policy Committee**

**Annual Determination of Notice Provisions for Open and Closed State Transportation Commission Meetings**

Loren Hatch, Deputy Secretary, NMDOT, discussed the annual determination of notice provisions for open and closed State Transportation Commission meetings pursuant to NMSA 1978, Section 10-15-1 (D) of the Open Meetings Act. He explained that every public body in the State that holds public meetings is required to define, on an annual basis, the particulars regarding reasonable notice for meetings. Commission Policy 1, *New Mexico State Transportation Commission Organization and Meetings* (CP 1), sets forth guidelines regarding the organization and meetings, both open and closed, of the STC. He also explained that the STC is required to take action at this time to determine the specific notice provisions for its open and closed public meetings. He recommended that the STC reaffirm its current notice provisions contained in CP 1.

**Initial Rulemaking Action Regarding Proposed Repeal and Replacement of NMDOT Rule**

**18.28.3 NMAC, Selection Committee for Qualifications Based Proposals**

Armando Armendariz, P.E., State Construction Bureau, NMDOT, requested the STC’s approval to initiate rulemaking action to repeal and replace NMDOT rule 18.28.3 NMAC, Selection Committee for Qualifications Based Proposals. He discussed the reasons for the proposed repeal and replacement of the rule and outlined the rulemaking procedure.
Regular Meeting Agenda

Staff Briefings

Secretary Report

Tom Church, Cabinet Secretary, NMDOT, introduced NMDOT’s new Legislative Finance Committee Budget Analyst, Ruby Ann Esquibel, and thanked her for attending the STC meeting. He subsequently discussed the 2016 NMDOT Annual Report. He explained that under the provisions of Commission Policy 21, Annual Report, the STC is required to approve the NMDOT’s Annual Report. The Annual Report provides an overview of NMDOT and its 2016 accomplishments, particularly concerning the state highway system, and the other areas for which it has oversight. The report includes information regarding executive program managers and District Engineers; major investment projects; detail regarding NMDOT revenue, budget and expenditures; highway and bridge conditions; highway improvement projects; district operations and state maintenance; transportation modal programs; and traffic safety initiatives. Also contained in the report is NMDOT’s financial summary for the fiscal year ended June 30, 2016.

Federal Highway Administration (FHWA) Report

J. Don Martinez, Division Administrator, FHWA, provided an update regarding recent events in Washington, D.C. He informed the STC and NMDOT management that the Continuing Resolution for federal highway funding has been extended until April. He does not anticipate that Congress will pass a new budget in the near future.
**Action Items**

Commissioner Mathews requested approval of STC agenda action items 9 (a) - (d) and (f) - (i) as follows:

9 (a) Approval of NM 195P Road Transfer to the City of Elephant Butte;
9 (b) Approval of FY17 Budget Adjustment Requests Nos. 13, 14, and 15;
9 (c) Approval of Initial Rulemaking Action Regarding Proposed Repeal and Replacement of NMDOT Rule 18.28.3 NMAC, Selection Committee for Qualifications Based Proposals;
9 (d) Approval of FY16/FY17 Financial Hardship Match Waiver Program – Local Government Road Fund;
9 (f) Approval of Proposed Update of Commission Policy No. 3, *Approval of Secretary*;
9 (g) Approval of Proposed Update of Commission Policy No. 44, *Funding Assistance to Local Governments*;
9 (h) Approval of Annual Determination of Notice Provisions for State Transportation Commission Open and Closed Meetings Pursuant to NMSA 1978, Section 10-15-1 (D); and
9 (i) Approval of 2016 NMDOT Annual Report.

Chairman Schmeits asked for a motion to approve STC Agenda action items 9 (a) - (d) and 9 (f) - (i); Commissioner Mathews made a motion to so approve; Commissioner Sepich seconded; motion carried unanimously.
Approval of Final Rulemaking Action Regarding Proposed Amendments to NMDOT Rules

18.11.3 NMAC, Air Service Assistance Program, and 18.11.9 NMAC, Governing the Approval of Grants (STC agenda action item 9 (e))

Steve Summers, Aviation Division Director, NMDOT, requested the STC’s approval to complete rulemaking action regarding proposed amendments to NMDOT Rules 18.11.3 NMAC, Air Service Assistance Program, and 18.11.9 NMAC, Governing the Approval of Grants.

Chairman Schmeits asked for a motion to approve the final rulemaking action regarding proposed amendments to NMDOT rules 18.11.3 NMAC, Air Service Assistance Program, and 18.11.9 NMAC, Governing the Approval of Grants; Commissioner Mathews made a motion to so approve; Commissioner White seconded; motion carried unanimously.

Commissioner Comments

Chairman Schmeits thanked the NMDOT Highway Employees Association (HEA) for providing refreshments for the meeting and expressed his appreciation to NMDOT staff.

Commissioner Gibson thanked Anthony Lujan, Deputy Secretary, NMDOT, and Marcos Trujillo, Policy Director, NMDOT, for attending the District Six holiday luncheon. He stated that he is looking forward to working with NMDOT staff in 2017.

Commissioner Mathews commented briefly regarding the State of New Mexico budget shortfall. He also expressed his appreciation to NMDOT staff and the contractors that work with NMDOT.

Commissioner Mortensen praised NMDOT District Three staff for receiving a great audit report from the NMDOT Office of Inspector General.
Commissioner Sepich expressed his appreciation to NMDOT staff for their proficiency. He also thanked FHWA.

Commissioner White thanked District Two and FHWA staff.

Chairman Schmeits asked for a motion to adjourn the regular meeting at 12:00 p.m.; Commissioner Mathews made a motion to so adjourn; Commissioner Sepich seconded; motion carried unanimously.

__________________________                                     ________________________
Chairman                               Secretary
Ronald Schmeits                           Kenneth R. White
Tab 4

Introductions
Agenda Items 4

4. Introductions: Ronald Schmeits, Chairman

a. Elected Officials
b. Commission Members
c. NMDOT Executive Staff
Tab 5
Welcoming Remarks
Commission Brief

SUBJECT: Welcoming Remarks

PRESENTER:

BACKGROUND:

- The Honorable Richard J. Berry, Mayor, City of Albuquerque

ACTION: No Action
Tab 6
Elected Officials
Delegations
Presentations
SUBJECT: Elected Officials/Delegations Presentations

PRESENTER:

BACKGROUND:

- Greater Gallup Economic Development Corporation, “Carbon Coal Road/4CITE Transportation Study”

ACTION: No Action
CARBON COAL ROAD
“A 4CITE Industry Gateway”

March 8, 2017
Introductions

• Anthony Dimas, Jr., McKinley County
• Evan Williams, NW COG Deputy Director
• Michael Sage, GGEDC Deputy Director
• Mario Juarez-Infante, Wilson & Company
What is 4CITE?

- The 4CITE Master Plan is a comprehensive approach to coordinate the planning and delivery of transportation projects that will improve multi-modal access to the Gallup Energy Logistics Park (GELP), the Navajo Inland Port, as well as regional connections to the existing and future transportation infrastructure.
Where is 4CITE?
Where is 4CITE?
GELP is a BNSF Certified Site

• GELP is a rail served industrial development on 2,500 acres of property located within McKinley County, New Mexico. A 365-acre parcel in GELP has received certification as part of BNSF Railway’s Certification Site program. BNSF certification ensures a site is ready for rapid acquisition and development through a comprehensive evaluation of existing and projected infrastructure, environmental and geotechnical standards, utility evaluation and site availability.

• Phase I, a $6M investment.
Carbon Coal Road

• “A 4CITE Industry Gateway”
  • Transportation Corridor for the Gallup Energy Logistics Park
  • **Access to US 491**, thereby eliminating use of Mentmore Road, at grade crossing of the railroad, and increasing safety

• On March 25, 2014, Governor Martinez announced new funding in the amount of $78M has been made available for the US Hwy 491 Corridor.

• The U.S. Hwy 491 corridor runs from Gallup, NM to the Four Corners Area. A four-lane corridor from Gallup to Shiprock will allow for more efficient transport of energy products from the Four Corners area along this highway.

• Honors the Transportation Element recommendations found in McKinley County Comprehensive Plan Update, 2012.

• Supports Logistics Industry, job creation catalyst, and housing as identified in the 4CITE Plan. In turn, generates Gross Receipts for the County to re-invest in other local County road reconstruction and maintenance.
Implementation Strategy

- **Phasing**
  - Phase I – 2 lane Typical Section
  - Phase 2 – full buildout

- **Funding Partners**
  - $2M US Department of Commerce EDA
  - $800 NM Capital Outlay
  - $5M NM LEDA

- **Design**
  - $241K Design full section with Phase I Bid Package
  - $75K needed for full EA

- **Construction**
  - March 2018 Start
  - Mid-December 2018 Complete

- **Schedule**
Plans, Specifications and Estimate

May  
June  
July  
August  
September  
October  
November  
December

(5 Months EA/5 Certs)

Funding Agreements

Construction

March  
April  
May  
June  
July  
August  
September  
October  
November  
December

EDA Austin

Kimberly Gonzalez

Project Oversight Division
Moving Forward

• Secure $241K funding for design
• Secure Consultant
• Notice to Proceed May 2017
• Final Design 2017
• Phase I Construction Start March 2018
  • Estimated Cost $7.5M
Why Local Lead?

• Expedite Design Professional Procurement Process
• Streamlines design by eliminating Phase I A/B, and C process
• Allows local entities to leverage knowledgeable Design Professional to assist in securing non-traditional transportation construction funding
Questions?
Tab 7
Public Comment
SUBJECT: Public Comment

PRESENTER:

BACKGROUND:

ACTION: No Action
Tab 8
District Three
Presentation & Employee Recognition
Commission Brief

SUBJECT: District Three Presentation

PRESENTER: Kenneth Murphy, P.E., Acting District Three Engineer, NMDOT

BACKGROUND:

ACTION: No Action
Tijeras Patrol Yard
Completed Projects

- Closed projects
  - Time: 2016 Calendar Year
  - Number of projects: 11
  - Contract amount: $68,081,167
Upcoming Projects

Roadway
- US 550, Bridge over Rio Grande
- I–25, Rio Bravo Interchange
- I–40, 6th Street to Rio Grande Bridge
- I–25, San Antonio to Jefferson

Bridges
- I–25 – 5 bridge deck overlays
- I–40 – 2 bridge deck overlays

Planning / Design Phase
- US 550, Phase II
- NM 6 over Rio Grande in Los Lunas
- NM 337, Bridge replacement near Chilili
- I–25 South Corridor Study

Safe, Efficient and Expedient Travel for Everyone
Pavement Preservation

2016 Accomplishments

- Number of Lane Miles Completed: 309.79
- Investment: $9,321,154
- Highlights:
  - I-25 from Tramway Interchange north for 5 miles (OGFC placement)
  - US 550, Camino del Pueblo (NM313) west to Spring Blvd. – 2.15 miles
Pavement Preservation

2017 Upcoming

- Planned Number of Lane Miles: 276
- Priority Projects:
  - I–25 Frontage Road, from Comanche to Paseo del Norte (Fog Seal)
  - NM 314/I–25 Business Loop, north 6.1 miles to Morris Rd. (Heater Scarification)
  - US 550/NM 528 west 4 miles to Unser Blvd. (Nova Chip)
District Three Employee of the Year

- Stanley Vigil
  - Environmental Management Crew
Supervisor of the Year

- Andres Saenz, Sr.
  - Bridge and Structures Crew
Crew of the Year

- Courtesy Patrol

Pictured from left to right: Steve Brown, Tom Pino, Kevin Baca, and Everett Quintana
## 2016 Best Practices

- **D3 Customer Inquiry Log**
  - Developed by: Sharon Cruz, Ann Lutz, and John Brown

### Inquiry Log

![Inquiry Log Interface](image)

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<th>ID</th>
<th>Call Date</th>
<th>Call Type</th>
<th>Entered By</th>
<th>Caller</th>
<th>Caller Name</th>
<th>Assigned To</th>
<th>Assigned Name</th>
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<td>2/17/2017</td>
<td>Maintenance</td>
<td>Brenda</td>
<td>311</td>
<td>City of Albuquerque</td>
<td>South Urban</td>
<td>Murphy Sandorval</td>
<td>35602 East Bound</td>
<td>1-40</td>
<td></td>
<td>166.00</td>
<td>Ladder in left lane between Joan Tabo and Tramway. Owner of ladder called to see where he could pick up his ladder after Murphy retrieves it. Murphy just called to say there was no ladder.</td>
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<td>2/17/2017</td>
<td>Maintenance</td>
<td>Eva Tronchine</td>
<td>311</td>
<td>City of Albuquerque</td>
<td>35501</td>
<td>Johnny Martinez</td>
<td>Cell North Bound 556</td>
<td>10.57</td>
<td>2 DEAD COYOTES NORTH OF MANITOBA ON TRAMWAY. Johnny called back to say coyotes jumped.</td>
<td></td>
<td></td>
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2016 Best Practices

- MMS Go-to-Guide
  - Developed by: Kimberly Gallegos, Nick Lucero, Marc Romero, Carl Lucero, and Dominic Gallegos
Highway Hero

- Kevin Baca
  - Courtesy Patrol
Highway Hero

Cruz Lugo
- North Urban Patrol
Thank you
Tab 9a1
Monthly Financial Report
Commission Brief

SUBJECT:  
FY17 Operating Budget and Financial Report – March 3, 2017

PRESENTER: Michael S. Friel, Accounting Services Director, CFO

BACKGROUND:

ACTION: No Action
## New Mexico Department of Transportation

### Base Budget for FY 2017 - as of 03/03/17

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<tr>
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<td>117</td>
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<td>117</td>
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<td>4,472,800</td>
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<td>12,941,600</td>
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<td>421</td>
<td>179</td>
<td>3,950</td>
<td>9,550,210</td>
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<td>17%</td>
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<tr>
<td>SubTotal</td>
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<td>867,553,000</td>
<td>17,670,800</td>
<td>885,223,800</td>
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### Multi-Year FY2016/FY2017 - as of 03/03/17

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<th>Adj. Budget</th>
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<td>117</td>
<td>A0552</td>
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<td>309,347,123</td>
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<td>137,842,073</td>
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<td>3,950</td>
<td>9,550,210</td>
<td>3,950,210</td>
<td>3,950,210</td>
<td>17%</td>
<td>6,895,479</td>
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<td>P563</td>
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<td>117</td>
<td>A0551</td>
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<td>117</td>
<td>A0551</td>
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<td>6,521,586</td>
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<td>4,606,226</td>
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<td>179</td>
<td>3,950</td>
<td>9,550,210</td>
<td>3,950,210</td>
<td>3,950,210</td>
<td>17%</td>
<td>6,895,479</td>
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<td>1,256,189,202</td>
<td>424,355,154</td>
<td>544,123,482</td>
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<td>287,710,566</td>
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## UNRESTRICTED STATE ROAD FUND ONLY

(Dollars in Millions)

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<th>B</th>
<th>C</th>
<th>D</th>
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<th>H</th>
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<td></td>
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<tr>
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<td>Begin FY17</td>
<td>OPBUD Rollover</td>
<td>+FY17 BARS</td>
<td>COMBINED FY17 BUDGET</td>
<td>Actual FY 17 Rev/Exp</td>
<td>PCT YTD FY 17</td>
<td>FY 16</td>
<td>Net Change</td>
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<td><strong>$16.1</strong></td>
<td><strong>$1,137.2</strong></td>
<td><strong>$396.1</strong></td>
<td>34.8%</td>
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<td><strong>$329.5</strong></td>
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<td><strong>$1,137.2</strong></td>
<td><strong>$472.7</strong></td>
<td>41.6%</td>
<td><strong>$486.1</strong></td>
<td>(13.4)</td>
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<td><strong>4) PLUS Beginning FY17 FUND BALANCE RESERVES (FY16 less Rebudgeted and RO)</strong></td>
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<td><strong>5) Adjusted FY17 OPERATING FUND BALANCES</strong></td>
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<td><strong>2) TOTAL OUTFLOWS (EXPENDITURES):</strong></td>
<td>$75.9</td>
<td>$41.4</td>
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<td>$118.9</td>
<td>$38.6</td>
<td>32.5%</td>
<td>$52.8</td>
<td>($14.2)</td>
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<td><strong>3) CURRENT INFLOWS MINUS OUTFLOWS</strong></td>
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<td>($5.4)</td>
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<td><strong>4) PLUS Beginning FY17 FUND BALANCE RESERVES (FY16 less ReBudgeted &amp; RO)</strong></td>
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<td>$32.1</td>
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<td><strong>5) CURRENT FY17 OPERATING FUND BALANCES</strong></td>
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<td><strong>CASH POSITION:</strong></td>
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<td>Cash Balance as of 01/03/17</td>
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<td>$55.2</td>
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CASH BALANCES FOR OPERATING
(Balances based on data from SHARE Trial Balances on January 3, 2017)

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<tr>
<th>NMDOT-FUNDS</th>
<th>Mar-16</th>
<th>Apr-16</th>
<th>May-16</th>
<th>Jun-16</th>
<th>Jul-16</th>
<th>Aug-16</th>
<th>Sep-16</th>
<th>Oct-16</th>
<th>Nov-16</th>
<th>Dec-16</th>
<th>Jan-17</th>
<th>Feb-17</th>
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<tbody>
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<td>ROAD FUND (10040,20100) Unrestricted</td>
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<td>15,429,992</td>
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<td>(13,341,959)</td>
<td>39,027,513</td>
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<td>4,104,212</td>
<td>3,800,312</td>
<td>4,500,343</td>
<td>4,187,355</td>
<td>3,948,917</td>
<td>3,729,401</td>
<td>3,391,545</td>
<td>3,238,974</td>
<td>3,005,394</td>
<td>2,606,696</td>
<td>2,204,796</td>
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<tr>
<td>SIB (89300) Restricted</td>
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<td>19,109,513</td>
<td>19,109,513</td>
<td>19,120,728</td>
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<td>19,148,382</td>
<td>19,195,382</td>
<td>19,763,655</td>
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<td>AVIATION (20500) Restricted</td>
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<td>11,523,087</td>
<td>10,318,469</td>
<td>10,850,880</td>
<td>10,231,221</td>
<td>10,341,913</td>
<td>10,405,844</td>
<td>10,579,073</td>
<td>10,289,204</td>
<td>10,317,522</td>
<td>10,319,335</td>
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<td>TRAFF FUNDS (10020,206,207,208) Restricted</td>
<td>1,702,080</td>
<td>2,188,322</td>
<td>2,417,616</td>
<td>2,543,413</td>
<td>2,255,840</td>
<td>2,436,247</td>
<td>2,333,735</td>
<td>2,467,948</td>
<td>2,402,312</td>
<td>2,410,889</td>
<td>2,446,242</td>
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<tr>
<td>NHTSA (10010) Restricted</td>
<td>(1,473,862)</td>
<td>(1,980,432)</td>
<td>(2,243,902)</td>
<td>(1,875,535)</td>
<td>(2,552,220)</td>
<td>(1,834,980)</td>
<td>(1,981,713)</td>
<td>(2,370,470)</td>
<td>(3,216,989)</td>
<td>(1,079,394)</td>
<td>(1,854,227)</td>
<td>(2,600,628)</td>
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<td>FTA (10030) Restricted</td>
<td>(1,061,573)</td>
<td>(1,648,686)</td>
<td>(997,277)</td>
<td>(1,169,290)</td>
<td>(2,702,470)</td>
<td>(511,551)</td>
<td>(549,369)</td>
<td>(516,596)</td>
<td>(242,579)</td>
<td>(448,337)</td>
<td>(1,398,044)</td>
<td>(910,202)</td>
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<td>INTERLOCK (82600) Restricted</td>
<td>2,505,756</td>
<td>2,494,117</td>
<td>2,502,553</td>
<td>2,442,673</td>
<td>2,454,885</td>
<td>2,442,003</td>
<td>2,403,117</td>
<td>2,381,192</td>
<td>2,355,432</td>
<td>2,343,171</td>
<td>2,630,811</td>
<td>2,593,531</td>
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<td>RESTRICTED FUND TOTALS</td>
<td>56,033,923</td>
<td>55,988,869</td>
<td>54,774,004</td>
<td>55,661,709</td>
<td>53,321,168</td>
<td>56,914,553</td>
<td>58,016,540</td>
<td>58,520,338</td>
<td>57,386,266</td>
<td>58,248,223</td>
<td>55,565,017</td>
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<td>TOTAL CASH BALANCES</td>
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<td>Fund Balances</td>
<td>&quot;Audited&quot;</td>
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<td>Encumbrance</td>
<td>(Less)</td>
<td>&quot;Projected&quot;</td>
<td>Fund Balances</td>
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<td>End FY16</td>
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<td>Re-Budgeted in</td>
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<td>NMDOT-FUNDS</td>
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<td>FY16/FY17 Budget</td>
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<td>Unrestricted:</td>
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<td>ROAD FUND (20100)+ INVENTORY (10040)</td>
<td>167,371,619</td>
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<td>(64,232,469)</td>
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<td>80,164,150</td>
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<td>LOCAL GOVT (20300)</td>
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<td>HIF (20200)</td>
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<td>SIB (89300)</td>
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<td>20,815,564</td>
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<td>AVIATION (20500)</td>
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<td>MOTORCYCLE (20600)</td>
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<td>DRIVER IMPROVEMENT (10020)</td>
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<td>(6,455)</td>
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<td>435,479</td>
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<td>DWI PREVENTION (20700)</td>
<td>579,766</td>
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<td>(116,384)</td>
<td>(400,000)</td>
<td>63,382</td>
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<td>STATE TRAFFIC SAFETY (20800)</td>
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<td>(435,426)</td>
<td>(600,000)</td>
<td>29,154</td>
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<td>NHTSA (10010)</td>
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<td>(1,842,800)</td>
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<tr>
<td>FTA (10030)</td>
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<td>(167,318)</td>
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<tr>
<td>INTERLOCK (82600)</td>
<td>2,446,122</td>
<td>(2,000,000)</td>
<td>(3,972)</td>
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<td>442,150</td>
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<td>Total Restricted Funds:</td>
<td>62,744,604</td>
<td>(5,001,200)</td>
<td>(25,582,204)</td>
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<td>TOTAL OPERATING FUND BALANCES</td>
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<td>(21,001,200)</td>
<td>(89,814,673)</td>
<td>(3,030,500)</td>
<td>111,294,850</td>
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</table>
Uncommitted Fund Reserves as of March 3, 2017 (June 30, 2017)

**UNRESTRICTED FUND BALANCES--- Fund 20100-State Road Fund = $80,164,150**

(This is the operating fund of the department and used to account for substantially all of the department’s financial activities. Created by section 67-3-65, NMSA 1978.)

**RESTRICTED FUND BALANCES---- TOTAL= $31,130,700**

Fund 20300-Local Government Road Fund = $4,488,151
(This fund accounts for construction and reconstruction of highways, streets and parking lots not on the state highway system as well as maintenance, improvements, and construction of school bus routes and public school parking lots and county roads. Created by Section 67-3-28.2 NMSA 1978.)

Fund 20800-State Traffic Safety Fund = $29,154
(This fund accounts for state matching monies received for various traffic safety programs. Created by Section 66-7-512, NMSA 1978.)

Fund 20500-State Aviation Fund = $4,120,502
(This fund is used to account for planning, construction and maintenance of a system of airports, navigation aids, and related facilities serving New Mexico. Created by Section 64-1-15, NMSA 1978.)

Fund 10010-Federal Traffic Safety Fund = ($1,842,800)
(This fund accounts for federal grant monies received for various traffic safety programs from NHTSA.)

Fund 10020 – Driver Improvement Program Fund = $435,479
(Used account for the operation of a driver improvement program. Created by Executive Order 87-20.)

Fund 20700 – DWI Prevention and Education Fund = $63,382
(This fund is used to account for the operation of DWI prevention and education program for elementary and second school students. Created by Section 66-5-35 NMSA 1978.)

Fund 89300 – State Infrastructure Fund = $20,815,564
(This fund is used to track funding, loans and repayments associated with the State Infrastructure Bank.)

Fund 20200 – Highway Infrastructure Fund = $2,747,727
(This fund is used to account for acquisition of right of ways, planning, design, engineering, construction or improvement of state highway projects pursuant to provisions of Laws of 1998, Chapters 84 and 85.). This fund was created by NMSA 67-3-59.2.)

Fund 82600-Interlock Device Fund = $442,150
(This fund is used to account for the fees used to pay for interlock devices for indigent people. (Created by Section 66-8-102.3 NMSA 1978.)

Fund 10030 – Federal Mass Transit Fund = ($167,318)
(This fund is used to account for Urban Mass Transit Authority grant monies and state matching funds for mass transit program activities.)

Fund 43100- Fund 43100 – WIPP Projects Fund = $0.00
(This fund is used to account for monies received from the U.S. Department of Energy for special designated roads associated with WIPP.)
Tab 9a2
FY17 Budget Adjustment Requests BAR’s NO. 16, 17, 18 and 19
SUBJECT: FY17 BAR #16 P562 – PDC

PRESENTER: Marcos B. Trujillo, Project Oversight Director

BACKGROUND:
A FY17 BAR is required to increase category 300 budget authority (federal only) by $110.5 million dollars for the FHWA program. The state match requirement of 15% ($19.5 million) will be met with existing budget authority.

ACTION: Request BAR Approval
## Budget Adjustment Request (BAR)

### In Brief

**Date of Request:** 3/1/2017  
**Date to Commission:** 3/16/2017  
**Program:** Project Design and Construction  
**Division:** Project Oversight  
**Director/DE:** Marcos Trujillo  
**Bureau/District:** Project Oversight  
**Bureau Chief:**  
**BAR Type:** Increase  
**Administrator:**  

<table>
<thead>
<tr>
<th>Amount Requested:</th>
<th>$110,200,000</th>
<th>Fund:</th>
<th>Source Type (revenue/cash/grant):</th>
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<tbody>
<tr>
<td>State Road Fund</td>
<td>$</td>
<td>20100</td>
<td></td>
</tr>
<tr>
<td>Federal Funds</td>
<td>$110,200,000</td>
<td></td>
<td>FHWA</td>
</tr>
<tr>
<td>Other State Funds</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>$110,200,000</td>
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</tr>
</tbody>
</table>

**Budget Appr./Category:** 9001000000/535300  

**Purpose/Justification for BAR:** A FY17 BAR is required to increase category 300 budget authority (federal only) by $110.5 million dollars for the FHWA program. The state match requirement of 15% ($19.5 million) will be met with existing budget authority.

**Approvals:** To Submit to Commission and if approved, to DFA.
SUBJECT: FY17 BAR #17- P563- Highway Operations

Presenter: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase the budget authority for the FY17 US550 Warranty Program Category 300 by $6.5 million. The Agreement with Mesa PDC for Corridor 44 (U.S. 550) Professional Services and Warranty, executed on July 27, 1998, stipulates that eligible work covered by the warranty must be administered by the State, including procurement of services and payment to the contractor performing the services. Mesa PDC will reimburse the Department for a percentage of the expenditures. The percentage is based on an inflationary clause in the agreement. This year, the total needed is $6,500,000 of which the percentage of Mesa PDC reimbursement will be 77.25%, $5,021,250, and the match for the Department will be 22.75 %, $1,478,750 (from fund balance).

ACTION: Request BAR Approval.
**Budget Adjustment Request (BAR)**

**In Brief**

<table>
<thead>
<tr>
<th>Date of Request:</th>
<th>3/1/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date to Commission:</td>
<td>3/16/2017</td>
</tr>
</tbody>
</table>

**Program: Transportation & Hwy Operations**

**Division: Transportation & Hwy Operations**

**Bureau/District: State Maintenance Bureau**

**BAR Type: Increase**

**Amount Requested:** $6,500,000

**Funding Source:**
- State Road Fund: $6,500,000
- Federal Funds: $-
- Other State Funds: $-

**Total:** $6,500,000

**Purpose/Justification for BAR:**
This increase will provide budget to the Road Betterments Division for eligible expenditures made by the Department in association with the warranty provided by Mesa PDC for the US 550 corridor.

**Significant Issues:**
The Agreement for Corridor 44 (U.S. 550) Professional Services and Warranty, executed on July 27, 1998, stipulates that eligible work covered by the warranty must be administered by the State, including procurement of services and payment to the contractor performing the services. Mesa PDC will reimburse the Department for a percentage of the expenditures. The percentage is based on an inflationary clause in the agreement. This year, the estimated percentage of Mesa PDC reimbursement is 77.25% ($5,021,250) with the Department expending 22.75% ($1,478,750).

**Attachments:**
Spreadsheet showing proposed US 550 Warranty work and cost estimates anticipated for this construction season.

**Approvals: To Submit to Commission and if approved, to DFA.**

**Business Support/Deputy:**

**Secretary/Deputy Sec.:**

**Budget Office Review:**

**Assigned BAR #:**

**Budget Director:**

---

**SUBMITTED BY:**
Michael Vigil/Mallery Martinez

**Funding Source:**
State Road Fund (SRF)
SUBJECT: FY17 BAR #18 P565 – Modal

PRESENTER: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase budget authority by $400 thousand in Category 300/Contractual Services for Traffic Safety (Driver Improvements Fund, #10020) from fund balance. The BAR request supports the Driver Improvements program by; 1) Contractual service agreement for data entry processing and front end quality control of uniform crash reports to be entered into the TRACs system to ensure accurate data for traffic fatalities and crash data and 2) To provide a continuing education contract to develop and implement a quality assurance monitoring, licensing and training system that ensures existing applicants and renewal of school applicants comply with governing state statutes, state rule and regulations and TSD policies and procedures.

ACTION: Request BAR Approval
### Budget Adjustment Request (BAR)

**In Brief**

<table>
<thead>
<tr>
<th>Date of Request:</th>
<th>3/16/2017</th>
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<tbody>
<tr>
<td>Date to Commission:</td>
<td>3/16/2017</td>
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</tbody>
</table>

**Program:** Modal  
**Division:** Modal  
**Bureau/District:** Traffic Safety- Driver Improvements  
**BAR Type:** Increase  
**Administrator:** Mallery Martinez

**Amount Requested:** $400,000  
**Funding Source:**  
- State Road Fund: $400,000  
- Federal Funds: -  
- Other State Funds: -  
**Total:** $400,000

**Purpose/Justification for BAR:**

A FY17 BAR is required to increase budget authority by $400 thousand in Category 300/Contractual Services for Traffic Safety (Driver Improvements Fund, #10020) from fund balance. The BAR request supports the Driver Improvements program by:

1) Contractual service agreement for data entry processing and front end quality control of uniform crash reports to be entered into the TRACs system to ensure accurate data for traffic fatalities and crash data and 2) To provide a continuing education contract to develop and implement a quality assurance monitoring, licensing and training system that ensures existing applicants and renewal of school applicants comply with governing state statutes, state rule and regulations and TSD policies and procedures.

**Spreadsheet showing Airport projects.**

**Significant Issues:**

**Attachments:**

Spreadsheet showing Airport projects.

**Approvals:**

To submit to Commission and if approved, to DFA.

**Business Support/Deputy:** Michael Sandoval  
**Secretary/Deputy Sec.:**  
**Budget Office Review:**  
**Assigned BAR #:**  
**Budget Director:**  
**DATE:**
SUBJECT: FY17 BAR #19 P565 – MODAL

PRESENTER: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase the budget authority for the Aviation Division, from fund balance in the amount of $2.75 million for multiple construction/maintenance projects and equipment needs at 28 NM Airports. The NMDOT has applied for a grant with the FAA to participate in these projects by funding 90% of the project/equipment costs (5% by Airport Authorities). See attached.

ACTION: Request BAR Approval
<table>
<thead>
<tr>
<th>State</th>
<th>City</th>
<th>Locid</th>
<th>Full Project Description</th>
<th>Project Cost</th>
<th>FAA @ 90%</th>
<th>State Match 5%</th>
<th>Local Match 5%</th>
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<tbody>
<tr>
<td>NM</td>
<td>Alamogordo</td>
<td>ALM</td>
<td>Runway 1-11 Mill and Shoulders</td>
<td>$903,200</td>
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<td>$45,160</td>
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<td>$240,000</td>
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<td>NM</td>
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<td>$4,869.5</td>
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<td>$280,718.2</td>
<td>$280,718.2</td>
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<td>NM</td>
<td>Farmington</td>
<td>FMN</td>
<td>Taxiways E, F &amp; G Rehabilitation - Construction</td>
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<td>$200,000</td>
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<td>GNT</td>
<td>Runway 13-31 Rehab - Construction</td>
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<td>NM</td>
<td>Hobbs</td>
<td>HOB</td>
<td>Runway 21 R &amp; S Apron and Aeronautical Apron Rehabilitation</td>
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<td>$810,000</td>
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<tr>
<td>NM</td>
<td>J or l</td>
<td>J26</td>
<td>Hangar Access Road and Drainage Improvements</td>
<td>$225,000</td>
<td>$202,500</td>
<td>$11,250</td>
<td>$11,250</td>
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<td>NM</td>
<td>Las Cruces</td>
<td>LRJ</td>
<td>Airfield Electric Vault Improvements</td>
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<td>$405,000</td>
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<td>LRU</td>
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<td>NM</td>
<td>Lordsburg</td>
<td>LBS</td>
<td>Partial Parallel Taxiway Design (51,340) and Apron Pavement Maintenance (90,090)</td>
<td>$140,000</td>
<td>$126,000</td>
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<tr>
<td>NM</td>
<td>Los Alamos</td>
<td>LAM</td>
<td>Replace wildlife Fence - Design Only?</td>
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<td>$58,500</td>
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<td>NM</td>
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<td>E26</td>
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<td>$225,000</td>
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<tr>
<td>NM</td>
<td>Mescal</td>
<td>BEO</td>
<td>Aircraft Parking Apron - Design and Construct</td>
<td>$800,000</td>
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<td>NM</td>
<td>Ohkay Owingeh</td>
<td>E14</td>
<td>Snow Removal Equipment</td>
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<td>$8,750</td>
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<td>NM</td>
<td>Questa</td>
<td>Q24</td>
<td>Wildlife Fence - Construction</td>
<td>$240,000</td>
<td>$216,000</td>
<td>$12,000</td>
<td>$12,000</td>
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<tr>
<td>NM</td>
<td>Raton</td>
<td>RTN</td>
<td>Rehabilitate Taxiway A</td>
<td>$500,000</td>
<td>$450,000</td>
<td>$25,000</td>
<td>$25,000</td>
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<td>NM</td>
<td>Roswell</td>
<td>ROW</td>
<td>Taxiway K Pavement Relocation - Design and Construction</td>
<td>$1,000,000</td>
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<td>$50,000</td>
<td>$50,000</td>
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<tr>
<td>NM</td>
<td>Roswell</td>
<td>ROW</td>
<td>Taxiway A Rehabilitation</td>
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<tr>
<td>NM</td>
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<td>SAF</td>
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<td>$4,500,000</td>
<td>$250,000</td>
<td>$250,000</td>
</tr>
<tr>
<td>NM</td>
<td>Santa Fe</td>
<td>SAF</td>
<td>North Apron Reconstruction</td>
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<td>$2,700,000</td>
<td>$150,000</td>
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<td>NM</td>
<td>Socorro</td>
<td>ONM</td>
<td>Taxiway Reflector System</td>
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<td>$235,000</td>
<td>$7,500</td>
<td>$7,500</td>
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<td>NM</td>
<td>Springer</td>
<td>S42</td>
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<td>$382,500</td>
<td>$21,250</td>
<td>$21,250</td>
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<tr>
<td>NM</td>
<td>T or C</td>
<td>TCS</td>
<td>Fuel Farm Demolition and Site Work</td>
<td>$225,000</td>
<td>$202,500</td>
<td>$11,250</td>
<td>$11,250</td>
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<tr>
<td>NM</td>
<td>Vaughn</td>
<td>W17</td>
<td>Airport Perimeter Fence Construction</td>
<td>$55,079,948</td>
<td>$49,571,953.2</td>
<td>$2,753,997.4</td>
<td>$2,753,997.4</td>
</tr>
</tbody>
</table>

NM FY 2016 Program
3/9/2017

70
Budget Adjustment Request (BAR)

In Brief

A FY17 BAR is required to increase the budget authority for the Aviation Division, from fund balance in the amount of $2.75 million for multiple construction/maintenance projects and equipment needs at 28 NM Airports. The NMDOT has applied for a grant with the FAA to participate in these projects by funding 90% ($42.6 million) of the project/equipment costs (5% by Airport Authorities).

| Date of Request: | 3/16/2017 |
| Date to Commission: | 3/16/2017 |
| Program: | Modal |
| Division: | Modal |
| Bureau/District: | Aviation |
| BAR Type: | Increase |
| Amount Requested: | $2,750,000 |
| Funding Source: | State Road Fund $2,750,000 |
| Source Type(revenue/cash/grant): | Aviation Fund |
| Total: | $2,750,000 |
| Purpose/Justification for BAR: | A FY17 BAR is required to increase the budget authority for the Aviation Division, from fund balance in the amount of $2.75 million for multiple construction/maintenance projects and equipment needs at 28 NM Airports. The NMDOT has applied for a grant with the FAA to participate in these projects by funding 90% ($42.6 million) of the project/equipment costs (5% by Airport Authorities). |
| Attachments: | Spreadsheet showing Airport projects. |
| Significant Issues: | |

Approved: To Submit to Commission and if approved, to DFA.

| Business SupportDeputy: | | DATE: |
| Secretary/Deputy Sec.: | | DATE: |
| Budget Office Review: | | |
| Assigned BAR #: | | |
| Budget Director: | | DATE: |
Tab 9a3
NMFA Monthly Report
SUBJECT: NMFA Report

PRESENTER: Mark Lovato, Investment Manager, NMFA

BACKGROUND:

ACTION: No Action
New Mexico Finance Authority report to
State Transportation Commission

Agenda for March 16, 2017

1. NMDOT Combined Investment Summary ending February 28, 2017
   a. NMDOT Executive Summary Bond Series 2006
   b. NMDOT Executive Summary Bond Series 2008 & 2011
   c. NMDOT Executive Summary Bond Series 2009
   d. NMDOT Executive Summary Bond Series 2010
   e. NMDOT Executive Summary Bond Series 2012
   f. NMDOT Executive Summary Bond Series 2014 (HIF)
   g. NMDOT Executive Summary Bond Series 2014B-1&2
   h. NMDOT Executive Summary (GRIP 2)

2. NMDOT Line of Credit (taxable) ending February 28, 2017

3. NMDOT Swap Valuation Report as of March 6, 2017

4. NMDOT/NMFA Debt Service outlook for FY 2017 as of February 28, 2017
INVESTMENT OF NM DEPT OF TRANSPORTATION BONDS
NMDOT CONSOLIDATED INVESTMENT PORTFOLIO

as of February 28, 2017

- The market value of the NMDOT Investment Portfolio as of February 28, 2017 was $104.2 million, a net decrease of $6.8 million from January. The change is attributed to debt service payments of $326,476, draws of $19.3 million this month plus total earnings of $40,078 and $12.8 million in debt service set asides.

- As of February 28, 2017 the total NMDOT Portfolio was composed of 32% in the project account (of which 15,054 is in the 2010A and 32.9 million in 2014A HIF), 68% in debt service accounts, and less than 1% in the arbitrage rebate account.

- The February month end portfolio holdings were 100% in money market mutual funds, and a yield of .45%.

### NMDOT - Consolidated Investment Portfolio

<table>
<thead>
<tr>
<th>Asset Type</th>
<th>Yield</th>
<th>Market Value</th>
<th>% of Portfolio</th>
<th>Term (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Treasuries</td>
<td>0.00%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>US Agencies</td>
<td>0.00%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Invesco US Govt Fund</td>
<td>0.45%</td>
<td>104,240,333</td>
<td>100.0%</td>
<td>1</td>
</tr>
<tr>
<td>Primary MM Fund*</td>
<td>0.00%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>SLGS</td>
<td>0.00%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>0.45%</strong></td>
<td><strong>104,240,333</strong></td>
<td><strong>100%</strong></td>
<td><strong>1</strong></td>
</tr>
</tbody>
</table>
The market value of the NMDOT 2006 Bond Series on February 28, 2017 was $277,276, a increase of $26,217 from January. The change was attributed to interest earnings of $91, and debt service set aside payments of $26,126.

As of February 28, 2017, the portfolio composition was 21% in debt service accounts and 79% in the arbitrage rebate account.

* NOTE : The project funds are 100% committed (Let)

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
The market value of the NMDOT 2008 & 2011 Bond Series on February 28, 2017 was $6.9 million. The change of $2 million was attributed to debt service payments of $326,476, plus interest earnings of $1,607, and debt service set aside payments of $2.3 million.

As of February 28, 2017 the portfolio composition was 100% in debt service accounts.

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
The market value of the NMDOT 2009 Bond Series on February 28, 2017 was $3.7 million. The change of $480,045 was attributed to interest earnings of $1,173 and debt service set aside payments of $478,873.

As of February 28, 2017 the portfolio composition was 100% in debt service accounts.

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
The market value of the NMDOT 2010A Bond Series project funds was $15,064 on February 28, 2017, the change was $6 in interest earnings, no draws this month.

Interest earnings for the month of February was $6 up from from $4 in January. Total earnings for the fiscal year 2017 is $50.

The weighted average yield was .45% at month-end, down from .46% in January.

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
The market value of the NMDOT 2010A and B Bond Series on February 28, 2017 was $56 million, the net change of $8.6 million from January was attributed to interest earnings of $16,781, no construction draws for the month, $8.6 million in Debt Service payments.

As of February 28, 2017 the portfolio composition was 100% in debt service accounts and less than 1% in Project accounts.

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
INVESTMENT OF NM DEPT OF TRANSPORTATION BONDS  
NMDOT - SERIES 2012 - TOTAL PORTFOLIO SUMMARY  
as of February 28, 2017

- The market value of the NMDOT 2012 Bond Series on February 28, 2017 was $2.5 million. The net change of $777,845 was due to interest earnings of $576, Debt Service set aside payments of $777,269.

- As of February 28, 2017 the portfolio composition was 100% in debt service accounts.

- The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.
The market value of the NMDOT (HIF) 2014A Bond Series project funds was $32.9 million on February 28, 2017, the decrease was attributed to interest earnings of $19,463 and there draws of $19.3 million this month.

Interest earnings for the month of February was $19,463. Total earnings for the fiscal year 2017 is $107,885.

The weighted average yield was .45% at month-end, down from .46% in January.

The February month end portfolio holdings were 100% in money market mutual funds.
The market value of the NMDOT(HIF) Series 2014A Bond Series on February 28, 2017 was $33.7 million, the decrease of $19 million from January was attributed to draws for $19.3 million, interest earnings of $19,630 debt service set aside of $318,682.

As of February 28, 2017 the portfolio composition was 3% in debt service accounts and 97% in Project accounts.

The February month end portfolio holdings were 100% in money market mutual funds and a yield of .45%.

### NMDOT (HIF) - Series 2014A - Portfolio Summary

<table>
<thead>
<tr>
<th>Account</th>
<th>Investment Type</th>
<th>Yield</th>
<th>Prior Yld</th>
<th>Market Value</th>
<th>% of Portfolio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project</td>
<td>Invesco Govt Fund</td>
<td>0.45%</td>
<td>0.46%</td>
<td>35,865,357</td>
<td>97.7%</td>
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<tr>
<td>Debt Service</td>
<td>Invesco Govt Fund</td>
<td>0.45%</td>
<td>0.46%</td>
<td>855,091</td>
<td>2.3%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>0.45%</td>
<td>0.46%</td>
<td>36,720,448</td>
<td>100%</td>
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</tbody>
</table>
The market value of the NMDOT 2014B-1 and B-2 Bond Series on February 28, 2017 was $1.1 million, the change attributed interest earnings of $220, debt service set aside of $360,932.

As of February 28, 2017 the portfolio composition was 100% in debt service accounts.

The February month end portfolio holdings were 100% in money market mutual funds and yield of .45%.

<table>
<thead>
<tr>
<th>Account</th>
<th>Investment Type</th>
<th>Yield</th>
<th>Prior Yld</th>
<th>Market Value</th>
<th>% of Portfolio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service</td>
<td>Invesco Govt Fund</td>
<td>0.45%</td>
<td>0.46%</td>
<td>1,054,058</td>
<td>100.0%</td>
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<tr>
<td>TOTAL</td>
<td></td>
<td>0.45%</td>
<td>0.46%</td>
<td>1,054,058</td>
<td>100%</td>
</tr>
</tbody>
</table>
The market value of the NMDOT (GRIP2) Severance and General Fund Appropriation project funds was $632,389 on February 28, 2017. This is up from January. The change was attributed to $506 in interest earnings.

Net Income for the month of February was $506 this is up from $459 in January. Total interest earnings for FY17 is $3,474.

The weighted average yield was .866% at month-end, down slightly from .878% in January. The average term of the portfolio was 401 days up from 390 days from the previous month.

The February month end portfolio holdings were 100% in the NMFA Operating Pool Funds. This pool is a diversified pool with US Treasury and US agency securities as well as some money market funds.
On February 28, 2016, the balance in the Taxable Line of Credit at RBC was $50 million for collateral needs. The balance in the Taxable Line of Credit at Wells Fargo was $50 million for the BNSF Escrow account.

During the month of February there was no draws on collateral line of credit, and none on the BNSF LOC. We do not have any collateral posted at this time.

There was no unused (commitment) and no used (interest) fees paid in February. The next quarterly fees are due in April.

Current LOC agreement is for $50 million from Royal Bank of Canada with the following terms
- Interest Cost (Used Portion) - 1 mo LIBOR plus .53%
- Commitment Fee (Unused Portion) - .15%
- Expires Dec 31, 2018

There was no unused (commitment) and no used (interest) fees paid in February. The next quarterly fees are due in April.

Current LOC agreement is for $50 million from Wells Fargo with the following terms
- Interest Cost (Used Portion) - 1 mo LIBOR plus .77%
- Commitment Fee (Unused Portion) - .20%
- Expires June 30, 2019
### New Mexico Finance Authority

**Snapshot** | **Accrued Interest** | **MTM Value**  
--- | --- | ---  
3/6/2017 | ($4,152,377.96) | ($86,065,584.43)  

| Bank Counterparty       | Product | Client Pays - Semi Annual | Client Receives - Monthly | Trade Date | Effective Date | Maturity Date | MTM Value | Initial Notional | Current Notional | Accrued Interest | Moody’s | S&P | Fitch  
|-------------------------|---------|----------------------------|---------------------------|------------|----------------|--------------|-----------|-----------------|-----------------|-----------------|----------|-----|--------  
| JPMorgan Chase Bank, N.A. | Swap     | 5.07200%                   | SIFMA Swap Index          | 4/22/2004  | 12/15/2006    | 12/15/2026   | ($28,447,002.19) | $110,000,000.00 | $110,000,000.00 | ($1,218,673.42) | Aa3      | A+  | AA-     
| JPMorgan Chase Bank, N.A. | K-I Swaption | 0.34% Premium; 5.0720% upon Exercise | SIFMA Swap Index upon Exercise | 4/22/2004  | 12/15/2006    | 12/15/2026   | $2,244,201.58     | $110,000,000.00 | $110,000,000.00 | N/A           | Aa3      | A+  | AA-     
| UBS AG, Stamford Branch | Swap     | 5.07200%                   | SIFMA Swap Index          | 4/22/2004  | 12/15/2006    | 12/15/2026   | ($28,447,002.19) | $110,000,000.00 | $110,000,000.00 | ($1,218,673.42) | A1       | A   | A       
| UBS AG, Stamford Branch | K-I Swaption | 0.34% Premium; 5.0720% upon Exercise | SIFMA Swap Index upon Exercise | 4/22/2004  | 12/15/2006    | 12/15/2026   | $2,244,201.58     | $110,000,000.00 | $110,000,000.00 | N/A           | A1       | A   | A      ।  
| Goldman Sachs Mitsui    | Swap     | 3.93400%                   | SIFMA Swap Index 'til 6/15/06; 68% of USD-LIBOR Thereafter | 4/23/2004  | 5/20/2004     | 6/15/2024    | ($8,414,995.80)   | $50,000,000.00 | $50,000,000.00 | ($428,757.78)  | Aa2      | AA- | N/A    ।  
| Royal Bank of Canada    | Swap     | 3.93400%                   | SIFMA Swap Index 'til 6/15/06; 68% of USD-LIBOR Thereafter | 4/23/2004  | 5/20/2004     | 6/15/2024    | ($16,829,991.61)  | $100,000,000.00 | $100,000,000.00 | ($857,515.56)  | Aa3      | AA- | AA     ।  
| Deutsche Bank AG        | Swap     | 3.93400%                   | 68% of USD-LIBOR          | 10/6/2008  | 10/6/2008     | 6/15/2024    | ($8,414,995.80)   | $50,000,000.00 | $50,000,000.00 | ($428,757.78)  | A1       | BBB- | A-      ।  

The valuations of derivatives transactions provided by PFM are indicative values based on mid-market levels as of the close of business on the date they are provided. These valuations are provided for information purposes only and are intended solely for internal use. These valuations do not represent the actual terms at which new transactions could be entered into or the actual terms at which existing transactions could be liquidated. The valuations provided are derived from proprietary models based upon well-recognized financial principles and reasonable estimates about relevant future market conditions. Valuations based on other models or different assumptions may yield different results. PFM believes its valuation methodology to be consistent with accepted practice in the market for interest rate swaps. Additional information is available on request. Information herein is believed to be reliable, but PFM does not warrant its completeness or accuracy. PFM does not hold a position or act as a market maker in the financial instruments of any issuer discussed herein.

Powered by SwapViewer®  

Report Generated Date: 3/7/2017
## NMDOT/NMFA OUTSTANDING BOND DEBT SERVICE

For Period: 2st half Fiscal Year 2017

<table>
<thead>
<tr>
<th>Bond Series</th>
<th>Principal Debt Service Due 6/15/2017</th>
<th>Interest Debt Service Due 6/15/2017</th>
<th>Total Debt Service Due 6/15/2017</th>
<th>Debt Service held as of 2/28/2017</th>
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<tbody>
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<td><strong>Fixed Rate Bonds</strong></td>
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</tr>
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<tr>
<td>2009 A Sr</td>
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<tr>
<td>2010 A-1 Sr 2010 A-2 Sub</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010 B Sr</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012 Sr</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014 A Sub</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014 B-1 Sr</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014 B-2 Sub</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Fixed and Variable</strong></td>
<td>75,340,000</td>
<td>20,213,450</td>
<td>95,553,450</td>
<td>64,266,091</td>
</tr>
</tbody>
</table>

| Variable Rate Bonds |                                      |                                     |                                  |                                  |
| FRNs (Fixed Rate Notes with Bank of America) |                                      |                                     |                                  |                                  |
| 2008 A Sub | 787,384                              | 787,384                             | 755,621                          |                                  |
| 2008 B Sub | 2,812,500                            | 2,812,500                           | 1,704,156                        |                                  |
| **Total Fixed and Variable** | 75,340,000                          | 30,619,750                          | 105,959,750                      | 71,140,255                      |

| Senior Lien | 75,340,000 | 18,010,075 | 93,350,075 |
| Subordinate Lien | -          | 12,609,675 | 12,609,675 |

| Payments on Dec 15, 2016 | 18,315,000 | 31,048,719 | 49,363,719 |

| TOTAL Annual DS | 93,655,000 | 61,668,469 | 155,323,469 |

Notes:

- Interest on Variable Rate Bonds is paid out monthly with a monthly receipt from the Swap providers.
- Interest on the 2008 A is based on the swap rate of 3.934%: does not take into account basis risk (any potential difference between adjustable rate payment to bondholders and payments received from swap providers).
- Interest on the 2008 B is based on the swap rate of 5.072% less option of .34% (4.732%): does not take into account basis risk (any potential difference between adjustable rate payment to bondholders and payments received from swap providers).
- Interest on the 2011 A-1 is based on the swap rate of 3.934% plus 65 basis points: does not take into account basis risk (any difference between adjustable rate payment to bondholders and payments received from swap providers).
- Interest on the 2011 A-2, 2011 A-3 is based on the swap rate of 4.732% plus 65 basis points: does not take into account basis risk (any difference between adjustable rate payment to bondholders and payments received from swap providers).
Tab 9a4
Refinance Update
Commission Brief

SUBJECT: Refinance Update

PRESENTER: Marcos B. Trujillo, Project Oversight Director

BACKGROUND:

ACTION: No Action
Tab 9a5
OIG FY17 Status Update
Commission Brief

SUBJECT: Office of Inspector General
FY17 status update

PRESENTER: Jeff Canney, Inspector General

BACKGROUND:

- Local Government Road Fund (LGRF) Project:
  Sandoval County Camino de las Huertas
- Audits completed in FY17 and Audit Plan Status
- Request amendment to CP30 to add two responsibilities:
  1. Prequalification program - applications and scoring process
  2. Provide reasonable assurance that engineering & design contractors’ overhead rates comply with Federal Acquisition Regulations

ACTION:
## OIG Reports from Previous Fiscal Year Plan, Completed in FY17

<table>
<thead>
<tr>
<th>Count</th>
<th>Reports started in Previous FY but Completed in FY17:</th>
<th>Status/Findings:</th>
<th>Corrective Action:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Professional Service Agreements</td>
<td>completed 7/5/16, purchase orders (encumbrances) being completed after contract execution</td>
<td>Procurement Division will implement business process to prevent expenditures incurred prior to encumbrance</td>
</tr>
<tr>
<td>2</td>
<td>Farmington Metropolitan Planning Organization</td>
<td>completed 10/3/16, FMPO billed for expenditures prior to award, work began prior to encumbrance</td>
<td>NMDOT adopted 'advance construction policy' to obligate &amp; encumber 100% of funding on October 1st to eliminate incurring costs prior to encumbrance</td>
</tr>
<tr>
<td>3</td>
<td>Northwest Regional Transportation Planning Organization</td>
<td>completed 12/12/16, work began prior to encumbrance, costs incurred prior to award</td>
<td>Planning Procedures Manual is scheduled for amendments Spring 2017, to standardize templates and improve budgets and invoicing</td>
</tr>
<tr>
<td>4</td>
<td>Accounting of Capital Assets/Heavy Equipment Transfers</td>
<td>completed 12/29/16, 8% of items tested (13/170) were not accurately acted for in SHARE and/or Fleet</td>
<td>Identified Fleet Mgt was not involved in tnsfr process, policy AND form was amended</td>
</tr>
<tr>
<td>5</td>
<td>NMDOT Per Diem Expenditures and Policy</td>
<td>completed 10/14/2016, identified an incr trend in expenditures, confusing policy for staff and mg</td>
<td>assigned to PPC for possible rewrite</td>
</tr>
</tbody>
</table>

Source: OIG 3/7/17
## FY17 OIG Audit Plan Status March 2017

<table>
<thead>
<tr>
<th>Program:</th>
<th>Count</th>
<th>FY17 Audit Plan:</th>
<th>Status/Findings:</th>
<th>Corrective Action:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Support</td>
<td>1</td>
<td>Closing computer access and employed status for past NMDOT employees and contractors</td>
<td>Assigned 2/1/17</td>
<td></td>
</tr>
<tr>
<td>Infrastructure &amp; Maintenance</td>
<td>2</td>
<td>Local Government Road Fund – Selected high-risk cooperative agreements</td>
<td>Draft Report phase, expected March 2017</td>
<td>OIG to provide reasonable assurance for compliance. New Procedures in March 2017: update CP30</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Indirect cost rate process and internal controls for Engineering Design contracts</td>
<td>Completed 11/7/16: Best practices identified for implementation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Engineering Design Manual contract, deliverables and process</td>
<td>Assigned 1/18/17</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Construction change orders and federal non-participations</td>
<td>Assigned 1/13/17</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Wright Express fuel reports - trend analysis and internal controls</td>
<td>Assigned 2/3/17</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>NMDOT Security Cameras – assess inventory and internal controls</td>
<td>Draft Report phase, expected March 2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Construction audits of selected federal, state and local projects:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Moriarty Project Office</td>
<td>Completed 10/24/2016</td>
<td>First NMDOT construction audit with no findings</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>Hilltop Project Office</td>
<td>Completed 11/7/2016</td>
<td>First NMDOT construction audit with no findings</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>Mogollon Project Office</td>
<td>Draft Report phase, expected March 2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12</td>
<td>Carlsbad Project Office</td>
<td>Draft Report phase, expected April 2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>13</td>
<td>Follow up of Moriarty Project Office</td>
<td>Completed 9/14/2016</td>
<td>All deficiencies corrected</td>
</tr>
<tr>
<td></td>
<td>14</td>
<td>Follow up of Anthony Project Office</td>
<td>Completed 11/17/2016</td>
<td>Most deficiencies corrected</td>
</tr>
<tr>
<td></td>
<td>15</td>
<td>Follow up of Milan Project Office</td>
<td>Completed 9/14/2016</td>
<td>All deficiencies corrected</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Federal Transit Administration (FTA) Public Transportation Funds: Section 5310 Enhanced Mobility of Seniors &amp; Disabled and Section 5311 Other Than Urban Areas</td>
<td>Assigned 3/6/17</td>
<td></td>
</tr>
</tbody>
</table>

### Status Count of Reports: FY17 % of Total

<table>
<thead>
<tr>
<th>Status</th>
<th>Count of Reports: FY17</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>completed on FY17 plan</td>
<td>6</td>
<td>40%</td>
</tr>
<tr>
<td>assigned/not completed FY17 plan</td>
<td>9</td>
<td>60%</td>
</tr>
<tr>
<td>Total</td>
<td>15</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: OIG 3/7/17
This Commission Policy supersedes Commission Policy No. 30 dated October 21, 2010.

It is the policy of the New Mexico State Transportation Commission to maintain consistent audit and investigation compliance control functions within the New Mexico Department of Transportation (the “Department”) to assure that the activities and operations of the Department are conducted in accordance with Federal and State laws, rules, regulations, and Department policies and procedures.

A. The Secretary of Transportation (the “Secretary”) shall establish and maintain an Office of Inspector General.

B. The Office of Inspector General shall have the authority to cross all organizational lines to collect information, conduct audits, and perform special studies and investigations.

C. The Office of Inspector General shall:

1. Provide objective and independent performance audit services and conduct routine database analysis on all construction contract data;

2. Conduct directed managerial studies (including inspections and evaluations) and surveys;

3. Provide the Commission with all audit reports on a quarterly basis;

4. Administer the Policy and Procedures Committee as provided in the Administrative Directive 116;

5. Maintain approved administrative directives and forms on the Department internal network;

6. Conduct inquiries and investigations into allegations of fraud, waste, abuse, theft and other wrongdoings perpetrated against the Department,
provided that information gleaned from investigations shall be confidential to the extent provided in all applicable laws, including, the Whistleblower Protection Act and the Fraud Against Taxpayers Act;

7. Maintain records of claims for damages to Department property, and coordinate with the Department’s Accounting Services Division to collect monies recovered in accordance with the provisions of NMSA 1978, § 67-7-10, with such monies deposited into the State Road Fund; and

8. Maintain the position of an information security officer to monitor all aspects of the Department’s computer systems to detect and investigate weaknesses in or abuses of the Department’s computer system.

9. Provide reasonable assurance of federal compliance of overhead rates for engineering and design contractors.

&.10. Perform prequalification application and scoring procedures as required by 18.27.5 NMAC (Contractor Prequalification Rule).

D. The Secretary shall apprise the Commission of final audit exceptions, final investigative reports, and any other significant final reports generated by the Office of Inspector General.
Tab 9b1
Update on Rulemaking Action for Amend or Repeal and Replace Rule 18-28-3 NMAC, Transportation and Highways, Highway Contracting and Bidding, Selection of Committee for Qualifications Based Proposals
SUBJECT: Rulemaking action for amend or repeal and replace rule 18.28.3 NMAC (New Mexico Administrative Code), Transportation and Highways, Highway Contracting and Bidding, Selection of Committee for Qualifications Based Proposals.

PRESENTER: Armando M. Armendariz

BACKGROUND: The options provided can be to amend or repeal and replacement of the proposed rule action involves the passing a motion by the STC authorizing the Secretary of Transportation to give public notice (at least 30 days) of an amendment or repeal and replace rule and to schedule a public hearing (following the notice period) to receive oral and written public comment on the proposed rule. At a regular or special Commission meeting following the hearing on the proposed rule, the Secretary or designee shall present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate.

When the STC adopts the proposed rule, with whatever alterations the STC deems appropriate, the rule shall be filed and published as soon as practicable

ACTION: Staff requests that the STC indicate preferred direction for rulemaking action for the amendment of or repeal and replace rule. A motion is requested to advance an option to rulemaking.
18.28.3.1 ISSUING AGENCY: New Mexico Department of Transportation, P.O. Box 1149 Santa Fe, New Mexico 87504-1149.  
[18.28.3.1 NMAC - Rp, 18 NMAC 28.3.1, 12/01/2004]

18.28.3.2 SCOPE: New Mexico department of transportation. General public. Engineering consultants.  
[18.28.3.2 NMAC - Rp, 18 NMAC 28.2, 12/01/2004]

18.28.3.3 STATUTORY AUTHORITY: NMSA 1978, Section 13-1-121 (D).  
[18.28.3.3 NMAC - Rp, 18 NMAC 28.3.3, 12/01/2004]

18.28.3.4 DURATION: Permanent.  
[18.28.3.4 NMAC - Rp, 18 NMAC 28.3.4, 12/01/2004]

18.28.3.5 EFFECTIVE DATE: December 1, 2004, unless a later date is cited at the end of a section.  
[18.28.3.5 NMAC - Rp, 18 NMAC 28.3.5, 12/01/2004]

18.28.3.6 OBJECTIVE: To create a professional services selection committee to serve as the selection committee for transportation projects of the New Mexico department of transportation using competitive sealed qualifications based proposals. This selection committee is necessary in order for the New Mexico department of transportation to fulfill its duties and responsibilities by effectively and continuously managing and conducting its work on transportation projects through the procurement process.  
[18.28.3.6 NMAC - Rp, 18 NMAC 28.3.6, 12/01/2004]

18.28.3.7 DEFINITIONS: [RESERVED]

18.28.3.8 COMMITTEE FOR QUALIFICATIONS BASED PROPOSALS:  
A. The professional services selections committee for transportation projects using competitive sealed qualifications based professional services shall consist of the following members:

- (1) permanent voting members:
  - (a) context sensitive solutions manager, or designee, who shall serve as chair, non-voting member; the cabinet secretary of the New Mexico department of transportation shall designate a five member voting committee with alternates to serve annually; and
  - (b) infrastructure division director, or designee, voting member; at a minimum the committee shall consist of three New Mexico registered professional engineers employed by the New Mexico department of transportation.

- (2) advisory (non-voting) members:
  - (a) contract administration section the New Mexico department of transportation chief procurement officer and staff; and
  - (b) equal employment opportunity programs bureau, any other employee of the New Mexico department of transportation as requested by the cabinet secretary of the New Mexico department of transportation.

- (e) federal highway administration (only if federal participation is requested);
- (f) project development engineer or project manager;
- (g) professional services contracts manager; and
- (h) any other person as requested by the secretary of transportation.
B. Members of the state transportation commission may attend any or all meetings of the professional services selection committee for consultant engineering and land surveyors at their discretion, but shall not participate in the selection process directly or indirectly.

[18.28.3.8 NMAC - Rp, 18 NMAC 28.3.8, 12/01/2004]

HISTORY OF 18.28.3 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Archives under: SHTD Rule 93-4, Emergency Rule creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 6/29/93; SHTD Rule 93-4, Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 11/2/93; and SHTD Rule 93-4, Amendment 1, Amendment to Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 12/15/94.


Other History: SHTD Rule 93-4, Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 11/2/93 was renumbered, reformatted, amended and replaced by 18 NMAC 28.3, Selection Committee for Qualification Based Proposals, effective 01/15/1998.
18 NMAC 28.3, Selection Committee for Qualification Based Proposals (filed 01/02/1998) was replaced by 18.28.3 NMAC, Selection Committee for Qualifications Based Proposals, effective 12/01/2004.
18.28.3.1 ISSUING AGENCY: New Mexico Department of Transportation, P.O. Box 1149 Santa Fe, New Mexico 87504-1149.
[18.28.3.1 NMAC - Rp, 18 NMAC 28.3.1, 12/01/2004]

18.28.3.2 SCOPE: New Mexico department of transportation. General public. Engineering consultants.
[18.28.3.2 NMAC - Rp, 18 NMAC 28.2, 12/01/2004]

18.28.3.3 STATUTORY AUTHORITY: NMSA 1978, Section 13-1-121 (D).
[18.28.3.3 NMAC - Rp, 18 NMAC 28.3.3, 12/01/2004]

18.28.3.4 DURATION: Permanent.
[18.28.3.4 NMAC - Rp, 18 NMAC 28.3.4, 12/01/2004]

18.28.3.5 EFFECTIVE DATE: December 1, 2004, unless a later date is cited at the end of a section.
[18.28.3.5 NMAC - Rp, 18 NMAC 28.3.5, 12/01/2004]

18.28.3.6 OBJECTIVE: To create a professional services selection committee to serve as the selection committee for transportation projects of the New Mexico department of transportation using competitive sealed qualifications based proposals. This selection committee is necessary in order for the New Mexico department of transportation to fulfill its duties and responsibilities by effectively and continuously managing and conducting its work on transportation projects through the procurement process.
[18.28.3.6 NMAC - Rp, 18 NMAC 28.3.6, 12/01/2004]

18.28.3.7 DEFINITIONS: [RESERVED]

18.28.3.8 COMMITTEE FOR QUALIFICATIONS BASED PROPOSALS:
A. The professional services selections committee for transportation projects using competitive sealed qualifications based professional services shall consist of the following members:
(1) permanent voting members:
   (a) context sensitive solutions manager, or designee, who shall serve as chair, non-voting member, the deputy secretary of operations or their designee;
   (b) infrastructure division director, or designee, voting member; the deputy secretary of business support or their designee;
   (c) programs division director, or designee, voting member; the division director for operations or their designee;
   (d) regional design manager overseeing project development engineers or development support services manager, or designee, voting member; the division director for design and construction or their designee; and
   (e) chief engineer or their designee;
   (f) district engineer, or designee, voting member;
(2) advisory (non-voting) members:
   (a) contract administration section; the New Mexico department of transportation chief procurement officer and staff; and
   (b) equal employment opportunity programs bureau; any other employee of the New Mexico department of transportation as requested to serve by the cabinet secretary of the New Mexico department of transportation; and
   (c) federal highway administration (only if federal participation is requested);
   (d) development support services bureau; and
   (e) state transportation commission member (at their discretion);
   (f) project development engineer or project manager;
   (g) professional services contracts manager; and
(h) any other person as requested by the secretary of transportation.

B. Members of the state transportation commission may attend any or all meetings of the professional services selection committee for consultant engineering and land surveyors at their discretion, but shall not participate in the selection process directly or indirectly.

[18.28.3.8 NMAC - Rp, 18 NMAC 28.3.8, 12/01/2004]

HISTORY OF 18.28.3 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Archives under: SHTD Rule 93-4, Emergency Rule creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 6/29/93; SHTD Rule 93-4, Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 11/2/93; and SHTD Rule 93-4, Amendment 1, Amendment to Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 12/15/94.


Other History: SHTD Rule 93-4, Rule Creating a Highway Project Selection Committee for Competitive Sealed Qualifications Based Proposals, filed 11/2/93 was renumbered, reformatted, amended and replaced by 18 NMAC 28.3, Selection Committee for Qualification Based Proposals, effective 01/15/1998.
18 NMAC 28.3, Selection Committee for Qualification Based Proposals (filed 01/02/1998) was replaced by 18.28.3 NMAC, Selection Committee for Qualifications Based Proposals, effective 12/01/2004.
Tab 9b2

Request for Initial Rulemaking Action for Amend or Repeal and Replace Rule 18-27-5 NMAC, Transportation and Highways, Highway Construction General Provisions, Contractor Prequalification Rule
Commission Brief

**SUBJECT:** Rulemaking action for amend or repeal and replace rule 18.27.5 NMAC (New Mexico Administrative Code), Transportation and Highways, Highway Construction General Provisions, Contractor Prequalification Rule.

**PRESENTER:** Armando M. Armendariz

**BACKGROUND:** The options provided can be to amend or repeal and replacement of the proposed rule action involves the passing a motion by the STC authorizing the Secretary of Transportation to give public notice (at least 30 days) of an amendment or repeal and replace rule and to schedule a public hearing (following the notice period) to receive oral and written public comment on the proposed rule. At a regular or special Commission meeting following the hearing on the proposed rule, the Secretary or designee shall present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate.

When the STC adopts the proposed rule, with whatever alterations the STC deems appropriate, the rule shall be filed and published as soon as practicable.

**ACTION:** Staff requests that the STC indicate preferred direction for rulemaking action for the amendment of or repeal and replace rule. A motion is requested to advance an option to rulemaking.
TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 27 HIGHWAY CONSTRUCTION GENERAL PROVISIONS
PART 5 CONTRACTOR PREQUALIFICATION RULE

18.27.5.1 ISSUING AGENCY: The New Mexico department of transportation, post office box 1149, Santa Fe, New Mexico, 87504-1149.
[18.27.5.1 NMAC - Rp, 18.27.5.1 NMAC, 01-01-15]

18.27.5.2 SCOPE: This rule applies to the New Mexico department of transportation construction projects and to all contractors and subcontractors seeking or anticipating the performance of work within the project limits.
[18.27.5.2 NMAC - Rp, 18.27.5.2 NMAC, 01-01-15]

[18.27.5.3 NMAC - Rp, 18.27.5.3 NMAC, 01-01-15]

18.27.5.4 DURATION: Permanent.
[18.27.5.4 NMAC - Rp, 18.27.5.4 NMAC, 01-01-15]

18.27.5.5 EFFECTIVE DATE: January 1, 2015, unless a later date is cited at the end of a section.
[18.27.5.5 NMAC - Rp, 18.27.5.5 NMAC, 01-01-15]

18.27.5.6 OBJECTIVE: To establish policies and procedures for a determination of responsibility through a contractor prequalification system that directly rewards good performers and encourages poor performers to improve.
[18.27.5.6 NMAC - Rp, 18.27.5.6 NMAC, 01-01-15]

18.27.5.7 DEFINITIONS:
A. This rule adopts the abbreviations, symbols and definitions in the division 100-general provisions of the New Mexico department of transportation current edition of the standard specifications for highway and bridge construction and incorporates the same by reference.
B. CID is the abbreviation of construction industries division.
C. Compass form means the New Mexico department of transportation form generated at project closure that documents certain contractor performance measurement data.
D. Innovative contracting is an alternate form of competitive bidding consistent with federal and state procurement laws that can result in work being awarded to a responsible bidder that may not submit the lowest monetary bid.
E. Modified bid amount means the contractor’s bid multiplied by the contractor’s prequalification factor rolling average or Pfqra. The modified bid amount will be used solely for determining the apparent lowest responsible bidder. The modified bid amount will not be used for payment.
F. Packet means the current New Mexico department of transportation contractor prequalification application from the office of inspector general.
G. Performance factor or Pf means the numerical quantification of a contractor’s past performance on closed projects for certain objectively measurable criteria.
H. Pf claim or PfC means the performance measurement of a contractor’s unsuccessful demand for reconsideration seeking additional compensation or contract time beyond the cabinet secretary administrative remedy level.
I. Pf disincentive or Pfid means the performance measurement of a contractor’s quality of work related to certain contract items. Applicable contract items for disincentive are the following sections 401 pavement smoothness measurement, 403 and 404 open graded friction course, 416 minor paving, 417 miscellaneous paving, 423 hot mix asphalt - superfine qla and non-qla, 424 warm mix asphalt qla and non-qla, 430 and 451 portland cement concrete pavement qla and non-qla, 901 quality control/quality assurance.
J. Pf liquidated damages or Pfld means the performance measurement of a contractor’s timely completion of the contract.
K. Pf non-conformance or Pfni means the performance measurement of a contractor’s compliance with the terms and conditions of the contract.

L. Pf safety or Pfis means the performance measurement of a contractor’s safety reflected by the contractor’s experience modifier rate or emr provided by the contractor’s bonding company.

M. Pf subcontractor or Pfsc means the performance measurement of a contractor’s prompt payment of its subcontractors or suppliers.

N. Pqf rolling average or Pqfra means the final measure of responsibility that is applied to the contractor’s bid resulting in the modified bid amount.

O. Prequalification factor year or Pqfy means the yearly calculation of a contractor’s performance factors.

P. Prequalification factor or Pqf means the overall mathematical analysis of the performance factors that measures contractor responsibility. Prequalification factor is abbreviated Pqf.

Q. Prequalification packet means the New Mexico department of transportation form submitted annually.

R. Responsibility means an objective determination based on past performance by the New Mexico department of transportation of the contractor’s capability in all respects to perform fully and make satisfactory delivery the requirements of the contract including the integrity and reliability that will assure good faith performance.

S. Rolling average means a calculation to analyze data points by creating a series of averages of different subsets of the full data set.

[18.27.5.7 NMAC - Rp, 18.27.5.7 NMAC, 01-01-15]

18.27.5.8 PREQUALIFICATION PROCEDURE: The prequalification packet to obtain prequalified status may be obtained from the office of inspector general of the New Mexico department of transportation. Each contractor and subcontractor seeking to become prequalified shall submit the prequalification packet and any supporting information to the New Mexico department of transportation office of inspector general at the address indicated in the prequalification packet. Deadlines are calculated from the date office of inspector general receives the new or renewal packet. Requests for prequalification will not be processed without the submission of a timely, complete and conforming packet. All packets shall contain a complete affidavit, executed under penalty of perjury by an authorized individual, certifying that the information contained in the packet is true and correct. Untimely, incomplete and non-conforming packets will not be processed.

A. Prequalified status will be granted upon the approval of a timely, complete and conforming prequalification packet by the office of inspector general.

B. An untimely, incomplete, or nonconforming packet will result in delays affecting prequalification status and will negatively impact the prime contractor’s ability to bid on New Mexico department of transportation projects.

1. Obtaining prequalified status is a condition to submitting a bid. Prime contractors submitting a new prequalification packet or renewal prequalification packet must submit it no later than seven days before the opening of any bid.

2. Prime contractors submitting a bid without timely obtaining prequalified status shall result in a determination that its bid is non-responsive and the bid shall be rejected.

C. Subcontractors must obtain prequalified status before performing any work or supplying goods or services to the project.

1. Subcontract packets for subcontractors who fail to obtain prequalified status before performing any work or supplying goods or services to the project shall be rejected.

2. Work performed or goods or services supplied without prequalified status shall be non-compensable.

D. For prime contractors and subcontractors who are currently prequalified by the effective date of this rule the applicant will not need to submit a new prequalification packet until the anniversary date of their last packet.

E. For prime contractors and subcontractors submitting new packets, within five days from the receipt of a new prequalification packet the office of inspector general will provide notice of receipt of the packet.

1. If the packet submitted is complete and conforming then the office of inspector general will provide written notice to the applicant of approved prequalified status.
(2) If the packet submitted is incomplete or does not conform to the requirements then the
office of inspector general will provide written notice to the applicant that the packet will not be processed until the
packet is complete and conforms to the requirements.
(3) The date of the written notice of approved prequalified status shall establish
prequalification eligibility for a period of one year. Prequalified status shall automatically terminate if not renewed
prior to the expiration date established by the written notice of approved prequalification status.
F. Renewal packets shall be submitted no later than seven days before the expiration date on the
document published by the office of inspector general titled prequalified contractors and subcontractors list.
Prequalified status shall automatically terminate for the failure to submit a timely, complete and conforming renewal
packet. Prequalified status shall be re-established upon the approval of a complete and conforming renewal packet.
G. Appeal of the denial of prequalification eligibility based upon the receipt of untimely, incomplete
or non-conforming packet shall be submitted in writing to the office of inspector general with supporting
documentation within seven days of the denial of prequalified status. If the appeal is untimely the aggrieved party
waives the right to appeal. The inspector general, or designee, will issue a final written decision upholding or
reversing the denial of prequalified status within seven days of the receipt of a timely appeal. The inspector
general’s decision constitutes the final action taken by the office of inspector general related to a denial of
prequalified status under this section.
H. Obtaining prequalification status, a performance factor, or a prequalification factor rolling average
does not grant a license to do business, a right to bid or to be awarded a contract.
I. In the event a contractor or subcontractor is suspended or debarred, its prequalification status shall
immediately and automatically terminate without further notice. In order to obtain renewed prequalification status
after a period of suspension or debarment a new complete and conforming prequalification packet must be submitted
and approved.
[18.27.5.8 NMAC - Rp, 18.27.5.8, 18.27.5.9, 18.27.5.10, 18.27.5.11, 18.27.5.12 NMAC, 01-01-15]

18.27.5.9 DEFICIENT, FALSE OR MISLEADING STATEMENTS: Any deficient, deceptive, false,
fradulent or misleading statements in the prequalification packet or incomplete affidavit may subject the offending
party to an automatic rejection or revocation of prequalified status, suspension, debarment proceedings or other civil
and criminal penalties under the New Mexico department of transportation rules and may be reported to the New
Mexico attorney general and the federal highway administration for further action.
[18.27.5.9 NMAC - Rp, 18.27.5.14 NMAC, 01-01-15]

18.27.5.10 LICENSING: Only contractors licensed in New Mexico may perform highway construction
work for the New Mexico department of transportation. The timing and requirements for licensure appear in the
invitation for bids for the project. All persons seeking additional information should refer to the New Mexico CIP
rules and regulations and the Construction Industries Licensing Act. Contractors are not required to have the
necessary construction industry licenses to submit a prequalification packet.
[18.27.5.10 NMAC - Rp, 18.27.5.9 NMAC, 01-01-15]

18.27.5.11 PREQUALIFICATION CALCULATION: The New Mexico department of transportation will
gather prime contractor performance data from each project upon project closure. The data collected will be used to
calculate a yearly prequalification factor. The prequalification factor rolling average will be applied to each
prequalified prime contractor to evaluate the prime contractor’s bid for department projects as indicated in the
invitation for bids.
A. The performance factors are claims, disinecentives, liquidated damages, non-conformance, safety,
and subcontractor.
(1) Pf claim data will be documented on the compass form and will be collected from the
New Mexico department of transportation’s closed project records.
(2) Pf disinecentive data will be documented on the compass form and will be collected from
the New Mexico department of transportation’s closed project records indicating whether disinecentives were
assessed on standard specification division for surface treatment and pavements and division for quality criteria
items.
(3) Pf liquidated damages data will be documented on the compass form and will be
collected from the New Mexico department of transportation’s closed project records indicating whether liquidated
damages were assessed.
(4) Pf non-conformance data will be documented on the compass form and will be collected from the New Mexico department of transportation’s closed project records indicating whether non-conformances were assessed.

(5) Pf safety data will be the contractor’s experience modifier rating as reported on its prequalification packet.

(6) Pf subcontractor data will be documented on the compass form and will be collected from the New Mexico department of transportation’s state construction bureau records indicating findings for the failure to promptly pay subcontractors or suppliers without good cause.

B. The performance factors are assigned percentage values within the yearly prequalification factor calculation.

(1) The percentage associated with claims is 15%.
(2) The percentage associated with incentives is 30%.
(3) The percentage associated with the liquidated damages is 30%.
(4) The percentage associated with non-conformances is 10%.
(5) The percentage associated with safety is 5%.
(6) The percentage associated with subcontractor is 10%.

C. Pf claim or PfE is calculated in the following manner:

(1) Claims that are not pursued beyond the cabinet secretary administrative remedy level will not be included in the calculation for Pf claim.

(2) For claims that are pursued beyond the cabinet secretary administrative remedy level a binary system will be used to assign a value of zero or one to evaluate claims.

(a) Claims resolved for the value of the claim or more brought beyond the cabinet secretary level will be assigned a value of zero.

(b) Claims resolved for less than the value of the claim brought beyond the cabinet secretary level will be assigned a value of one.

(3) Pf claim is calculated by adding the number one to the outcome of the sum of the claim value divided by the sum of closed projects.

(4) Pf claim resulting in a value of one will be assigned a bonus value for Pf claim equal to 0.9.

(5) Pf claim will then be multiplied by the percentage associated with Pf claim. The resulting value will be incorporated into Pfyr.

D. Pf incentive or PfE is calculated in the following manner:

(1) For each closed project:

(a) Sum paid and accepted applicable contract items.

(b) Sum of paid and accepted applicable contract items less applicable contract disincentives.

(c) Divide the total of Subparagraph (a) by the total of Subparagraph (b) of Paragraph (1) of Subsection D of this section.

(2) Sum all closed projects of Subsection D Paragraph (1) Subparagraph (c) of this section in a given year and divide by the count of closed projects resulting in Pfyr.

(3) Pf incentive resulting in a value of zero or one will be assigned a bonus value for Pf disincentive equal to 0.9.

(4) Pf disincentive will then be multiplied by the percentage associated with Pf disincentive. The resulting value will be incorporated into Pfyr.

E. Pf liquidated damages or PfE has two separate methods of calculation one for mandatory completion date projects and one for calendar or working day projects:

(1) For mandatory completion date projects liquidated damages equivalence is calculated:

(a) Subtract the mandatory completion date including any awarded time from the notice to proceed date to equate to a whole number.

(b) Subtract the actual completion date from the notice to proceed date to equate to a whole number.

(c) Divide the total of Subparagraph (b) by the total of Subparagraph (a) of Paragraph (1) of Subsection E of this section.

(d) A resulting value less than or equal to one from Subparagraph (c) of Paragraph (1) of Subsection E of this section will be assigned a bonus value equal to 0.9.
New Mexico Register / Volume XXV, Number 24 / December 30, 2014

(2) For calendar or working day projects liquidated damages equivalence is calculated:
   (a) Sum of the total days charged.
   (b) Sum of the total days contracted.
   (c) Divide the total of Subparagraph (a) by Subparagraph (b) of Paragraph (2) of Subsection E of this section.
   (d) A resulting value less than or equal to one from Subparagraph (c) of Paragraph (2) of Subsection E of this section will be assigned a bonus value equal to 0.9.

(3) Pf liquidated damages for a given year is the calculated from all project liquidated damages. Pf liquidated damages is the sum of liquidated damages equivalence for mandatory completion date, calendar or working day projects divided by the count of closed projects resulting in Pfld.

(4) Pf liquidated damages will then be multiplied by the percentage associated with Pfld. The resulting value will be incorporated into Pqfyr.

F. Pf non-conformance or Pfnc is calculated in the following manner:
   (1) Sum the number of progress payments per project.
   (2) Sum the number of progress payments without non-conformance.
   (3) Divide Paragraph (1) by Paragraph (2) of this subsection.
   (4) A resulting value of one for Paragraph (3) of this subsection will be assigned a bonus value equal to 0.9.

(5) Sum all closed projects of Paragraph (4) of this subsection in a given year and divide by the count of closed projects resulting in Pfnc. The resulting value will be incorporated into Pqfyr.

(6) Pf non-conformance for a given year will then be multiplied by the percentage associated with Pfnc. The resulting value will be incorporated into Pqfyr.

G. The performance factor for safety or Pf is the contractor’s experience modifier rate supplied annually by the contractor at the time of submission of the prequalification packet.
   (1) Pf for a given year is the numerical value of the contractor’s experience modifier rate.
   (2) If the experience modifier is equal to or less than one the Pfs is assigned a value of 0.9.
   (3) The experience modifier rate is multiplied by the percentage associated with Pfs. The resulting value will be incorporated into Pqfyr.

H. Pf subcontractor or Pfscc is calculated in the following manner:
   (1) Negative findings against the prime contractor per project will result in a value of one per finding.
   (2) Pfscc for a given year is the sum of all negative findings in the year.
   (3) Zero findings on all closed projects within the year will receive a bonus of Pf subcontractor equal to 0.9.

(4) The sum of Pfscc for a given year is multiplied by the percentage associated with Pfscc. The resulting value will be incorporated into Pqfyr.

I. The contractor’s yearly performance factor is the sum of the individual performance factors multiplied by their associated percentages.

J. The equation is Pqfyr = Pfic * 15% + Pfld * 30% + Pfnc * 10% + Pfs * 5% + Pfscc * 10%.

K. In the absence of data for any given year a contractor’s Pqfyr will be assigned a value of one.

L. For joint ventures the higher value of all joint venture applicant’s Pqfrr will be used for the modified bid amount.

M. The contractor’s prequalification factor rolling average will be denoted as Pqfra.
   (1) The Pqfra will be calculated through the use of a rolling average covering a period of three years. Each rolling average year will be assigned a weighting factor and will be multiplied by the appropriate weighting factor starting with the most recent year.
   (2) The most recent year, denoted as Pqfyr 1, will be multiplied by the weighting factor of 0.9.
   (3) The preceding year, denoted as Pqfyr 2, will be multiplied by the weighting factor of 0.6.
   (4) The preceding year, denoted as Pqfyr 3, will be multiplied by the weighting factor of 0.3.
   (5) The sum of Pqfyr 1 through Pqfyr 3, is multiplied by their appropriate weighting factors and then divided by the sum of all weighting factors to result in the contractor’s overall Pqfra.

N. The equation for Pqfra = (Pqfyr 1 * 0.9 + Pqfyr 2 * 0.6 + Pqfyr 3 * 0.3) / (0.9 + 0.6 + 0.3).

O. All equations and calculations whether interim or final will be rounded to the thousandths place.

[18.27.5.11 NMAC - N, 01-01-15]
18.27.5.12 POSTING, REVIEW AND APPLICATION OF PREQUALIFICATION FACTOR: The following procedures will apply to the posting, review and application of the prequalification factor:
A. The Pqfra will be calculated once a year on projects closed between January first and December thirty-first of the previous year.
B. The Pqfra will be posted on the office of inspector general list titled prequalified contractors and subcontractors list by the second Friday in January.
C. The Pqfra will be applied to a prime contractor’s bid(s) beginning with the March bid opening until superseded by an updated Pqfra.
D. The Pqfra will be used to determine the modified bid amount.
[18.27.5.12 NMAC - N, 01-01-15]

18.27.5.13 APPEAL PROCEDURE: In the event of the appeal of a contractor’s prequalification factor the following procedures shall apply:
A. Only a contractor disputing their own prequalification factor shall have the right to appeal.
B. To be considered an appeal must conform in timing, form and service to all requirements in this section or the appeal shall be rejected.
C. A contractor disputing only the misapplication of its prequalification factor to their bid shall file the appeal according to the bidding dispute resolution procedures in the New Mexico department of transportation current edition of the standard specifications for highway and bridge construction bidding dispute resolution procedures.
D. A contractor disputing only the calculation of its prequalification factor shall file its appeal within seven days of the publication of their prequalification factor.
E. The appeal filed must conform to the requirements below and contain the following information:
   (1) The appeal shall be in writing.
   (2) Appeals made by electronic mail shall not be considered.
   (3) The appeal shall clearly and concisely state the party’s right to appeal, the grounds for appeal, the requested relief, and contain relevant laws, rules, regulations and documents to support the appeal.
      (a) Sufficient copies of cited laws, rules, regulations, or documentary evidence shall be included with the appeal.
      (b) Supporting documentary evidence not submitted at the time of filing the appeal shall be submitted no later than five days before the hearing.
   (4) The documents submitted in the appeal process shall not be considered confidential and will be subject to the Inspection of Public Records Act, Sections 14-2-1 to 14-2-12 NMSA 1978 (1993, as amended through 2011).
F. Service of the appeal shall occur as follows:
   (1) A contractor disputing its prequalification factor shall serve the appeal upon the New Mexico department of transportation’s cabinet secretary. The contractor shall contemporaneously provide a copy of the appeal to the office of the general counsel and the office of inspector general at the respective address for each.
   (2) Service upon the cabinet secretary must be made either in person, by certified mail return receipt requested, or by delivery by a nationally recognized courier.
   (3) Service must be made during regular business hours.
   (4) Service made outside of regular business hours will be considered effective the next business day.
G. 10 days after receipt of a timely and complete appeal the cabinet secretary shall provide the following:
   (1) Notice to all parties advising the parties that an informal hearing will be convened and designating a neutral hearing officer or designating himself as the hearing officer.
   (2) Within seven days of the cabinet secretary’s designation the hearing officer will provide a notice to all parties of hearing with the date, time and location of the hearing. The notice of hearing will be provided no later than seven days before the chosen hearing date for the informal hearing.
H. The formal rules of civil procedure, formal discovery processes, and the formal rules of evidence shall not apply to the informal hearing.
   (1) Any party to the appeal may choose to have legal counsel present.
   (2) The hearing officer has the authority to determine the degree of formality of the hearing.
The hearing officer has the authority to determine the total time allotted for the informal hearing and how the time will be apportioned between the parties.

I. The hearing officer shall be responsible for maintaining a record of the evidence and proceedings.
   1. The hearing officer will weigh the credibility of the evidence provided by both parties.
   2. The hearing officer may use any reliable information, no matter the source, in arriving at a determination.
   3. If the hearing officer uses information in the determination not provided by either party then the hearing officer will allow a reasonable amount of time for rebuttal from either party.

J. The hearing officer shall issue a decision regarding the appeal within seven days of the hearing unless otherwise extended by the hearing officer in writing.
   1. The hearing officer’s decision will constitute the final department action on the appeal.
   2. No further action on the appeal may be taken by the either party if the hearing officer’s decision is accepted by both parties.
   3. If the appealing party does not fully accept the hearing officer’s decision then the appealing party may proceed with litigation in state district court by filing the appropriate pleadings.

K. Record of the appeal through the hearing officer’s decision will be maintained by the office of inspector general for seven years after the date of the informal hearing.

L. For bidding purposes and during the period of appeal the contractor’s previous prequalification factor will apply.

[18.27.5.13 NMAC - N, 01-01-15]

18.27.5.14 PREQUALIFICATION COMMITTEE: Members of the prequalification committee will be designated by the cabinet secretary of the New Mexico department of transportation and shall meet annually to review the prequalification process. Any information reported by a prime contractor or subcontractor during the prequalification process may be reviewed by the prequalification committee to determine responsibility.

[18.27.5.14 NMAC - N, 01-01-15]

18.27.5.15 PREQUALIFICATION FOR CONSOLIDATED COMPANIES, JOINT VENTURES AND OTHER SPECIAL BUSINESS FORMATIONS: The following prequalification packet procedure and Pqfra will apply to consolidated companies, consolidated companies related by common ownership and joint ventures:

A. For consolidated companies not related by common ownership and the parent company is not included in the consolidation each subsidiary within the consolidated company must be individually prequalified before a notice to proceed will be issued for the project. The Pqfra scores of the subsidiaries survive the merger or consolidation and the highest Pqfra of the subsidiaries joined by consolidation will be used for the modified bid amount.

B. For consolidated companies related by common ownership each subsidiary and parent company in the merger or consolidated company must be individually prequalified before a notice to proceed will be issued for the project. The Pqfra scores of the subsidiaries survive the merger or consolidation and the highest Pqfra of the subsidiaries or parent company joined by consolidation will be used for the modified bid amount.

C. Each prime contractor participating in the joint venture must be individually prequalified seven days before bid opening to join forces as a joint venture for bidding and performing work related to a single project. The joint venture itself need not prequalify.
   1. In addition to being individually prequalified each prime contractor participating in the joint venture shall file with the office of inspector general a statement of joint venture.
   2. For joint ventures the higher value of all joint venture applicant’s Pqfra will be used for the modified bid amount.

[18.27.5.15 NMAC - Rp, 18.27.5.15, 01-01-15]

18.27.5.16 ADOPTION OF THE NEW MEXICO STATE DEPARTMENT OF TRANSPORTATION CURRENT EDITION OF THE STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION: This rule adopts by reference the current edition of the New Mexico state department of transportation standard specifications for highway and bridge construction, as amended by this rule.

[18.27.5.17 NMAC - N, 01-01-15]

HISTORY OF 18.27.5 NMAC:
Pre-NMAC History: None

History of the Repealed Material:
18 NMAC 27.5, Highway Construction General Provisions-Contractor Prequalifications, filed 11/13/98. This was a temporary rule expiring 120 days from effective date of 11/30/98.
18.27.5 NMAC, Contractor Prequalification Rule, (filed 12/07/00) repealed and replaced by 18.27.5 NMAC, Contractor Prequalification Rule, effective 01/01/15.
Tab 10a
Secretary Report
Commission Brief

SUBJECT: Secretary Report

PRESENTER: Tom Church, Cabinet Secretary, NMDOT

BACKGROUND:

ACTION: No Action
Tab 10b
FHWA Report
Commission Brief

SUBJECT: FHWA Report

PRESENTER: J. Don Martinez, Division Administrator, FHWA

BACKGROUND:

ACTION: No Action
Tab 11a
Approval of FY17 Budget Adjustment Requests (BAR’s) No. 16, 17, 18, and 19
SUBJECT: FY17 BAR #16 P562 – PDC

PRESENTER: Marcos B. Trujillo, Project Oversight Director

BACKGROUND:
A FY17 BAR is required to increase category 300 budget authority (federal only) by $110.5 million dollars for the FHWA program. The state match requirement of 15% ($19.5 million) will be met with existing budget authority.

ACTION: Request BAR Approval
Budget Adjustment Request (BAR)
In Brief

Date of Request: 3/1/2017
Date to Commission: 3/16/2017
Program: Project Design and Construction
Division: Project Oversight
Bureau/District: Project Oversight
BAR Type: Increase

SUBMITTED BY: Marcos Trujillo

Amount Requested: $110,200,000
Funding Source:
- State Road Fund $ -
- Federal Funds $110,200,000
- Other State Funds $ -
Total $110,200,000

Source Type (revenue/cash/grant):
Fund: 20100

Funding Source:
- State Road Fund -$ 20100
- Federal Funds 110,200,000$
- Other State Funds -$
Total 110,200,000$

Budget Appr./Category: 9001000000/535300

Purpose/Justification for BAR:
A FY17 BAR is required to increase category 300 budget authority (federal only) by $110.5 million dollars for the FHWA program. The state match requirement of 15% ($19.5 million) will be met with existing budget authority.

Significant Issues:

Attachments:
(Support Documentation)

Approvals: To Submit to Commission and if approved, to DFA.

Business Support Deputy: DATE:
Secretary/Deputy Sec.: DATE:
Budget Office Review:

Assigned BAR #: DATE:
Budget Director: DATE:

In Brief
SUBJECT: FY17 BAR #17- P563- Highway Operations
Presenter: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase the budget authority for the FY17 US550 Warranty Program Category 300 by $6.5 million. The Agreement with Mesa PDC for Corridor 44 (U.S. 550) Professional Services and Warranty, executed on July 27, 1998, stipulates that eligible work covered by the warranty must be administered by the State, including procurement of services and payment to the contractor performing the services. Mesa PDC will reimburse the Department for a percentage of the expenditures. The percentage is based on an inflationary clause in the agreement. This year, the total needed is $6,500,000 of which the percentage of Mesa PDC reimbursement will be 77.25%, $5,021,250, and the match for the Department will be 22.75%, $1,478,750 (from fund balance).

ACTION: Request BAR Approval.
## Budget Adjustment Request (BAR)

### In Brief

**Date of Request:** 3/1/2017  
**Date to Commission:** 3/16/2017

**Program:** Transportation & Hwy Operations  
**Division:** Transportation & Hwy Operations  
**Bureau/District:** State Maintenance Bureau  
**Bureau Chief:** Rick Padilla  
**BAR Type:** Increase  
**Administrator:** Michael Vigil/Mallery Martinez

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<th>Source Type (revenue/cash/grant):</th>
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<td><strong>Funding Source</strong></td>
<td><strong>Fund</strong></td>
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<td>State Road Fund</td>
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<td>Other State Funds</td>
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<tr>
<td><strong>Total</strong></td>
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**Budget Appr./Category:** 9168000000/535300

**Purpose/Justification for BAR:**

This increase will provide budget to the Road Betterments Division for eligible expenditures made by the Department in association with the warranty provided by Mesa PDC for the US 550 corridor.

**Significant Issues:**

The Agreement for Corridor 44 (U.S. 550) Professional Services and Warranty, executed on July 27, 1998, stipulates that eligible work covered by the warranty must be administered by the State, including procurement of services and payment to the contractor performing the services. Mesa PDC will reimburse the Department for a percentage of the expenditures. The percentage is based on an inflationary clause in the agreement. This year, the estimated percentage of Mesa PDC reimbursement is 77.25% ($5,021,250) with the Department expending 22.75% ($1,478,750).

**Attachments:**

Spreadsheet showing proposed US 550 Warranty work and cost estimates anticipated for this construction season.

**Approvals:** To Submit to Commission and if approved, to DFA.

<table>
<thead>
<tr>
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<tr>
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<td>DATE:</td>
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**Assigned BAR #:** 121  
**Budget Director:** DATE:
SUBJECT: FY17 BAR #18 P565 – Modal

PRESENTER: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase budget authority by $400 thousand in Category 300/Contractual Services for Traffic Safety (Driver Improvements Fund, #10020) from fund balance. The BAR request supports the Driver Improvements program by; 1) Contractual service agreement for data entry processing and front end quality control of uniform crash reports to be entered into the TRACs system to ensure accurate data for traffic fatalities and crash data and 2) To provide a continuing education contract to develop and implement a quality assurance monitoring, licensing and training system that ensures existing applicants and renewal of school applicants comply with governing state statutes, state rule and regulations and TSD policies and procedures.

ACTION: Request BAR Approval
## Budget Adjustment Request (BAR)
### In Brief

**Date of Request:** 3/16/2017  
**Date to Commission:** 3/16/2017

**Program:** Modal  
**Division:** Modal  
**Bureau/District:** Traffic Safety- Driver Improvements  
**BAR Type:** Increase

<table>
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<tr>
<th><strong>Budget Office Review:</strong></th>
<th><strong>Attached:</strong></th>
<th><strong>Attachments:</strong> (Support Documentation)</th>
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<tbody>
<tr>
<td><strong>Purpose/Justification for BAR:</strong></td>
<td></td>
<td>Spreadsheet showing Airport projects.</td>
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A FY17 BAR is required to increase budget authority by $400 thousand in Category 300/Contractual Services for Traffic Safety (Driver Improvements Fund, #10020) from fund balance. The BAR request supports the Driver Improvements program by: 1) Contractual service agreement for data entry processing and front end quality control of uniform crash reports to be entered into the TRACs system to ensure accurate data for traffic fatalities and crash data and 2) To provide a continuing education contract to develop and implement a quality assurance monitoring, licensing and training system that ensures existing applicants and renewal of school applicants comply with governing state statutes, state rule and regulations and TSD policies and procedures.

**Amount Requested:** $400,000  
**Fund:** State Road Fund  
**Source Type (revenue/cash/grant):** Driver Improvement

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**Significant Issues:**

**Approvals:** To Submit to Commission and if approved, to DFA.

**Budget Director:**

**Business Support/Deputy:**

**Secretary/Deputy Sec.:**

**Assigned BAR #:**

**DATE:**
SUBJECT: FY17 BAR #19 P565 – MODAL

PRESENTER: Mallery Martinez, Acting Budget Director

BACKGROUND:
A FY17 BAR is required to increase the budget authority for the Aviation Division, from fund balance in the amount of $2.75 million for multiple construction/maintenance projects and equipment needs at 28 NM Airports. The NMDOT has applied for a grant with the FAA to participate in these projects by funding 90% of the project/equipment costs (5% by Airport Authorities). See attached.

ACTION: Request BAR Approval
<table>
<thead>
<tr>
<th>State</th>
<th>City</th>
<th>Locid</th>
<th>Full Project Description</th>
<th>Project Cost</th>
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**Budget Adjustment Request (BAR)**

**In Brief**

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**Purpose/Justification for BAR:**
A FY17 BAR is required to increase the budget authority for the Aviation Division, from fund balance in the amount of $2.75 million for multiple construction/maintenance projects and equipment needs at 28 NM Airports. The NMDOT has applied for a grant with the FAA to participate in these projects by funding 90% ($42.6 million) of the project/equipment costs (5% by Airport Authorities).

**Approvals:** To Submit to Commission and if approved, to DFA.

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**SUBMITTED BY:**
Steve Summers
Mallery Martinez

**Significant Issues:**

**Attachments:** Spreadsheet showing Airport projects.
Tab 11b

Approval of Initial Rulemaking Action for Amend or Repeal and Replace Rule 18-27-5 NMAC, Transportation and Highways, Highway Construction General Provisions, Contractor Prequalification Rule
SUBJECT: Rulemaking action for amend or repeal and replace rule 18.27.5 NMAC (New Mexico Administrative Code), Transportation and Highways, Highway Construction General Provisions, Contractor Prequalification Rule.

PRESENTER: Armando M. Armendariz

BACKGROUND: The options provided can be to amend or repeal and replacement of the proposed rule action involves the passing a motion by the STC authorizing the Secretary of Transportation to give public notice (at least 30 days) of an amendment or repeal and replace rule and to schedule a public hearing (following the notice period) to receive oral and written public comment on the proposed rule. At a regular or special Commission meeting following the hearing on the proposed rule, the Secretary or designee shall present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate.

When the STC adopts the proposed rule, with whatever alterations the STC deems appropriate, the rule shall be filed and published as soon as practicable.

ACTION: Staff requests that the STC indicate preferred direction for rulemaking action for the amendment of or repeal and replace rule. A motion is requested to advance an option to rulemaking.
TITLE 18  TRANSPORTATION AND HIGHWAYS
CHAPTER 27  HIGHWAY CONSTRUCTION GENERAL PROVISIONS
PART 5  CONTRACTOR PREQUALIFICATION RULE

18.27.5.1  ISSUING AGENCY: The New Mexico department of transportation, post office box 1149, Santa Fe, New Mexico, 87504-1149.
[18.27.5.1 NMAC - Rp, 18.27.5.1 NMAC, 01-01-15]

18.27.5.2  SCOPE:  This rule applies to the New Mexico department of transportation construction projects and to all contractors and subcontractors seeking or anticipating the performance of work within the project limits.
[18.27.5.2 NMAC - Rp, 18.27.5.2 NMAC, 01-01-15]

[18.27.5.3 NMAC - Rp, 18.27.5.3 NMAC, 01-01-15]

18.27.5.4  DURATION:  Permanent.
[18.27.5.4 NMAC - Rp, 18.27.5.4 NMAC, 01-01-15]

18.27.5.5  EFFECTIVE DATE:  January 1, 2015, unless a later date is cited at the end of a section.
[18.27.5.5 NMAC - Rp, 18.27.5.5 NMAC, 01-01-15]

18.27.5.6  OBJECTIVE:  To establish policies and procedures for a determination of responsibility through a contractor prequalification system that directly rewards good performers and encourages poor performers to improve.
[18.27.5.6 NMAC - Rp, 18.27.5.6 NMAC, 01-01-15]

18.27.5.7  DEFINITIONS:
A.  This rule adopts the abbreviations, symbols and definitions in the division 100-general provisions of the New Mexico department of transportation current edition of the standard specifications for highway and bridge construction and incorporates the same by reference.
B.  CID is the abbreviation of construction industries division.
C.  Compass form means the New Mexico department of transportation form generated at project closure that documents certain contractor performance measurement data.
D.  Innovative contracting is an alternate form of competitive bidding consistent with federal and state procurement laws that can result in work being awarded to a responsible bidder that may not submit the lowest monetary bid.
E.  Modified bid amount means the contractor’s bid multiplied by the contractor’s prequalification factor rolling average or Pqfra. The modified bid amount will be used solely for determining the apparent lowest responsible bidder. The modified bid amount will not be used for payment.
F.  Packet means the current New Mexico department of transportation contractor prequalification application from the office of inspector general.
G.  Performance factor or Pf means the numerical quantification of a contractor’s past performance on closed projects for certain objectively measurable criteria.
H.  Pf claim or PfC means the performance measurement of a contractor’s unsuccessful demand for reconsideration seeking additional compensation or contract time beyond the cabinet secretary administrative remedy level.
I.  Pf disincentive or PfD means the performance measurement of a contractor’s quality of work related to certain contract items. Applicable contract items for disincentive are the following sections 401 pavement smoothness measurement, 403 and 404 open graded friction course, 416 minor paving, 417 miscellaneous paving, 423 hot mix asphalt - superfine qla and non-qla, 424 warm mix asphalt qla and non-qla, 430 and 451 portland cement concrete pavement qla and non-qla, 901 quality control/quality assurance.
J.  Pf liquidated damages or PfD means the performance measurement of a contractor’s timely completion of the contract.
K. Pf non-conformance or Pfni means the performance measurement of a contractor’s compliance with the terms and conditions of the contract.

L. Pf safety or Pfis means the performance measurement of a contractor’s safety reflected by the contractor’s experience modifier rate or emr provided by the contractor’s bonding company.

M. Pf subcontractor or Pfsc means the performance measurement of a contractor’s prompt payment of its subcontractors or suppliers.

N. Pqf rolling average or Pqfra means the final measure of responsibility that is applied to the contractor’s bid resulting in the modified bid amount.

O. Prequalification factor year or Pqfy means the yearly calculation of a contractor’s performance factors.

P. Prequalification factor or Pqf means the overall mathematical analysis of the performance factors that measures contractor responsibility. Prequalification factor is abbreviated Pqf.

Q. Prequalification packet means the New Mexico department of transportation form submitted annually.

R. Responsibility means an objective determination based on past performance by the New Mexico department of transportation of the contractor’s capability in all respects to perform fully and make satisfactory delivery the requirements of the contract including the integrity and reliability that will assure good faith performance.

S. Rolling average means a calculation to analyze data points by creating a series of averages of different subsets of the full data set.

[18.27.5.7 NMAC - Rp, 18.27.5.7 NMAC, 01-01-15]

18.27.5.8 PREQUALIFICATION PROCEDURE: The prequalification packet to obtain prequalified status may be obtained from the office of inspector general of the New Mexico department of transportation. Each contractor and subcontractor seeking to become prequalified shall submit the prequalification packet and any supporting information to the New Mexico department of transportation office of inspector general at the address indicated in the prequalification packet. Deadlines are calculated from the date office of inspector general receives the new or renewal packet. Requests for prequalification will not be processed without the submission of a timely, complete and conforming packet. All packets shall contain a complete affidavit, executed under penalty of perjury by an authorized individual, certifying that the information contained in the packet is true and correct. Untimely, incomplete and non-conforming packets will not be processed.

A. Prequalified status will be granted upon the approval of a timely, complete and conforming prequalification packet by the office of inspector general.

B. An untimely, incomplete, or non-conforming packet will result in delays affecting prequalification status and will negatively impact the prime contractor’s ability to bid on New Mexico department of transportation projects.

(1) Obtaining prequalified status is a condition to submitting a bid. Prime contractors submitting a new prequalification packet or renewal prequalification packet must submit it no later than seven days before the opening of any bid.

(2) Prime contractors submitting a bid without timely obtaining prequalified status shall result in a determination that its bid is non-responsive and the bid shall be rejected.

C. Subcontractors must obtain prequalified status before performing any work or supplying goods or services to the project.

(1) Subcontract packets for subcontractors who fail to obtain prequalified status before performing any work or supplying goods or services to the project shall be rejected.

(2) Work performed or goods or services supplied without prequalified status shall be non-compensable.

D. For prime contractors and subcontractors who are currently prequalified by the effective date of this rule the applicant will not need to submit a new prequalification packet until the anniversary date of their last packet.

E. For prime contractors and subcontractors submitting new packets, within five days from the receipt of a new prequalification packet the office of inspector general will provide notice of receipt of the packet.

(1) If the packet submitted is complete and conforming then the office of inspector general will provide written notice to the applicant of approved prequalified status.
(2) If the packet submitted is incomplete or does not conform to the requirements then the
office of inspector general will provide written notice to the applicant that the packet will not be processed until the
packet is complete and conforms to the requirements.

(3) The date of the written notice of approved prequalified status shall establish
prequalification eligibility for a period of one year. Prequalified status shall automatically terminate if not renewed
prior to the expiration date established by the written notice of approved prequalification status.

F. Renewal packets shall be submitted no later than seven days before the expiration date on the
document published by the office of inspector general titled prequalified contractors and subcontractors list.
Prequalified status shall automatically terminate for the failure to submit a timely, complete and conforming renewal
packet. Prequalified status shall be re-established upon the approval of a complete and conforming renewal packet.

G. Appeal of the denial of prequalification eligibility based upon the receipt of untimely, incomplete
or non-conforming packet shall be submitted in writing to the office of inspector general with supporting
documentation within seven days of the denial of prequalified status. If the appeal is untimely the aggrieved party
waives the right to appeal. The inspector general, or designee, will issue a final written decision upholding or
reversing the denial of prequalified status within seven days of the receipt of a timely appeal. The inspector
general’s decision constitutes the final action taken by the office of inspector general related to a denial of
prequalified status under this section.

H. Obtaining prequalification status, a performance factor, or a prequalification factor rolling average
does not grant a license to do business, a right to bid or to be awarded a contract.

I. In the event a contractor or subcontractor is suspended or debarred, its prequalification status shall
immediately and automatically terminate without further notice. In order to obtain renewed prequalification status
after a period of suspension or debarment a new complete and conforming prequalification packet must be submitted
and approved.

[18.27.5.8 NMAC - Rp, 18.27.5.8, 18.27.5.9, 18.27.5.10, 18.27.5.11, 18.27.5.12 NMAC, 01-01-15]

18.27.5.9 DEFICIENT, FALSE OR MISLEADING STATEMENTS: Any deficient, deceptive, false,
fraudulent or misleading statements in the prequalification packet or incomplete affidavit may subject the offending
party to an automatic rejection or revocation of prequalified status, suspension, debarment proceedings or other civil
and criminal penalties under the New Mexico department of transportation rules and may be reported to the New
Mexico attorney general and the federal highway administration for further action.

[18.27.5.9 NMAC - Rp, 18.27.5.14 NMAC, 01-01-15]

18.27.5.10 LICENSING: Only contractors licensed in New Mexico may perform highway construction
work for the New Mexico department of transportation. The timing and requirements for licensure appear in the
invitation for bids for the project. All persons seeking additional information should refer to the New Mexico CID
rules and regulations and the Construction Industries Licensing Act. Contractors are not required to have the
necessary construction industry licenses to submit a prequalification packet.

[18.27.5.10 NMAC - Rp, 18.27.5.9 NMAC, 01-01-15]

18.27.5.11 PREQUALIFICATION CALCULATION: The New Mexico department of transportation will
gather prime contractor performance data from each project upon project closure. The data collected will be used to
calculate a yearly prequalification factor. The prequalification factor rolling average will be applied to each
prequalified prime contractor to evaluate the prime contractor’s bid for department projects as indicated in the
invitation for bids.

A. The performance factors are claims, disincentives, liquidated damages, non-conformance, safety, and
subcontractor.

(1) Pf claim data will be documented on the compass form and will be collected from the
New Mexico department of transportation’s closed project records.

(2) Pf disincentive data will be documented on the compass form and will be collected from
the New Mexico department of transportation’s closed project records indicating whether disincentives were
assessed on standard specification division for surface treatment and pavements and division for quality criteria
items.

(3) Pf liquidated damages data will be documented on the compass form and will be
collected from the New Mexico department of transportation’s closed project records indicating whether liquidated
damages were assessed.

18.27.5 NMAC
(4) Pf non-conformance data will be documented on the compass form and will be collected from the New Mexico department of transportation’s closed project records indicating whether non-conformances were assessed.

(5) Pf safety data will be the contractor’s experience modifier rating as reported on its prequalification packet.

(6) Pf subcontractor data will be documented on the compass form and will be collected from the New Mexico department of transportation’s state construction bureau records indicating findings for the failure to promptly pay subcontractors or suppliers without good cause.

B. The performance factors are assigned percentage values within the yearly prequalification factor calculation.

1. The percentage associated with claims is 15%.
2. The percentage associated with incentives is 30%.
3. The percentage associated with the liquidated damages is 30%.
4. The percentage associated with non-conformances is 10%.
5. The percentage associated with safety is 5%.
6. The percentage associated with subcontractor is 10%.

C. Pf claim or PfE is calculated in the following manner:
1. Claims that are not pursued beyond the cabinet secretary administrative remedy level will not be included in the calculation for Pf claim.
2. For claims that are pursued beyond the cabinet secretary administrative remedy level a binary system will be used to assign a value of zero or one to evaluate claims.
   a. Claims resolved for the value of the claim or more brought beyond the cabinet secretary level will be assigned a value of zero.
   b. Claims resolved for less than the value of the claim brought beyond the cabinet secretary level will be assigned a value of one.
3. Pf claim is calculated by adding the number one to the outcome of the sum of the claim value divided by the sum of closed projects.
4. Pf claim resulting in a value of one will be assigned a bonus value for Pf claim equal to 0.9.
5. Pf claim will then be multiplied by the percentage associated with Pf claim. The resulting value will be incorporated into Pqfyr.

D. Pf disincentive or PfE is calculated in the following manner:
1. For each closed project:
   a. Sum paid and accepted applicable contract items.
   b. Sum of paid and accepted applicable contract items less applicable contract disincentives.
   c. Divide the total of Subparagraph (a) by the total of Subparagraph (b) of Paragraph (1) of Subsection D of this section.
2. Sum all closed projects of Subsection D Paragraph (1) Subparagraph (c) of this section in a given year and divide by the count of closed projects resulting in PfE.
3. Pf disincentive resulting in a value of zero or one will be assigned a bonus value for Pf disincentive equal to 0.9.
4. Pf disincentive will then be multiplied by the percentage associated with Pf disincentive. The resulting value will be incorporated into Pqfyr.

E. Pf liquidated damages or PfE has two separate methods of calculation one for mandatory completion date projects and one for calendar or working day projects:
1. For mandatory completion date projects liquidated damages equivalence is calculated:
   a. Subtract the mandatory completion date including any awarded time from the notice to proceed date to equate to a whole number.
   b. Subtract the actual completion date from the notice to proceed date to equate to a whole number.
   c. Divide the total of Subparagraph (b) by the total of Subparagraph (a) of Paragraph (1) of Subsection E of this section.
2. A resulting value less than or equal to one from Subparagraph (c) of Paragraph (1) of Subsection E of this section will be assigned a bonus value equal to 0.9.
For calendar or working day projects liquidated damages equivalence is calculated:

(a) Sum of the total days charged.
(b) Sum of the total days contracted.
(c) Divide the total of Subparagraph (a) by Subparagraph (b) of Paragraph (2) of Subsection E of this section.
(d) A resulting value less than or equal to one from Subparagraph (c) of Paragraph (2) of Subsection E of this section will be assigned a bonus value equal to 0.9.

PF liquidated damages for a given year is the calculated from all project liquidated damages. PF liquidated damages is the sum of liquidated damages equivalence for mandatory completion date, calendar or working day projects divided by the count of closed projects resulting in Pfld.

PF liquidated damages will then be multiplied by the percentage associated with Pfld. The resulting value will be incorporated into Pqfyr.

PF non-conformity or Pfn is calculated in the following manner:

(1) Sum the number of progress payments per project.
(2) Sum the number of progress payments without non-conformance.
(3) Divide Paragraph (1) by Paragraph (2) of this subsection.
(4) A resulting value of one for Paragraph (3) of this subsection will be assigned a bonus value equal to 0.9.

(5) Sum all closed projects of Paragraph (4) of this subsection in a given year and divide by the count of closed projects resulting in Pfn. The resulting value will be incorporated into Pqfyr.

PF non-conformity for a given year will then be multiplied by the percentage associated with Pfn. The resulting value will be incorporated into Pqfyr.

The performance factor for safety or Pfs is the contractor’s experience modifier rate supplied annually by the contractor at the time of submission of the prequalification packet.

(1) Pfs for a given year is the numerical value of the contractor’s experience modifier rate.
(2) If the experience modifier is equal to or less than one the Pfs is assigned a value of 0.9.
(3) The experience modifier rate is multiplied by the percentage associated with Pfs. The resulting value will be incorporated into Pqfyr.

PF subcontractor or Pfscc is calculated in the following manner:

(1) Negative findings against the prime contractor per project will result in a value of one per finding.
(2) Pfscc for a given year is the sum of all negative findings in the year.
(3) Zero findings on all closed projects within the year will receive a bonus of Pf subcontractor equal to 0.9.

(4) The sum of Pfscc for a given year is multiplied by the percentage associated with Pfscc. The resulting value will be incorporated into Pqfyr.

The contractor’s yearly performance factor is the sum of the individual performance factors multiplied by their associated percentages.

The equation is Pqfyr = Pfscc * 15% + Pfld * 30% + Pfn * 10% + Pfs * 5% + Pfscc * 10%.

In the absence of data for any given year a contractor’s Pqfyr will be assigned a value of one.

For joint ventures the higher value of all joint venture applicant’s Pqfra will be used for the modified bid amount.

The contractor’s prequalification factor rolling average will be denoted as Pqfra.

(1) The Pqfra will be calculated through the use of a rolling average covering a period of three years. Each rolling average year will be assigned a weighting factor and will be multiplied by the appropriate weighting factor starting with the most recent year.

(2) The most recent year, denoted as Pqfyr 1, will be multiplied by the weighting factor of 0.9.
(3) The preceding year, denoted as Pqfyr 2, will be multiplied by the weighting factor of 0.6.
(4) The preceding year, denoted as Pqfyr 3, will be multiplied by the weighting factor of 0.3.
(5) The sum of Pqfyr 1 through Pqfyr 3, is multiplied by their appropriate weighting factors and then divided by the sum of all weighting factors to result in the contractor’s overall Pqfra.

The equation for Pqfra = (Pqfyr 1 * 0.9 + Pqfyr 2 * 0.6 + Pqfyr 3 * 0.3) / (0.9 + 0.6 + 0.3).

All equations and calculations whether interim or final will be rounded to the thousandths place.

[18.27.5.11 NMAC - N, 01-01-15]
18.27.5.12 POSTING, REVIEW AND APPLICATION OF PREQUALIFICATION FACTOR: The following procedures will apply to the posting, review and application of the prequalification factor:
   A. The Pqfra will be calculated once a year on projects closed between January first and December thirty-first of the previous year.
   B. The Pqfra will be posted on the office of inspector general list titled prequalified contractors and subcontractors list by the second Friday in January.
   C. The Pqfra will be applied to a prime contractor’s bid(s) beginning with the March bid opening until superseded by an updated Pqfra.
   D. The Pqfra will be used to determine the modified bid amount.
[18.27.5.12 NMAC - N, 01-01-15]

18.27.5.13 APPEAL PROCEDURE: In the event of the appeal of a contractor’s prequalification factor the following procedures shall apply:
   A. Only a contractor disputing their own prequalification factor shall have the right to appeal.
   B. To be considered an appeal must conform in timing, form and service to all requirements in this section or the appeal shall be rejected.
   C. A contractor disputing only the misapplication of its prequalification factor to their bid shall file the appeal according to the bidding dispute resolution procedures in the New Mexico department of transportation current edition of the standard specifications for highway and bridge construction bidding dispute resolution procedures.
   D. A contractor disputing only the calculation of its prequalification factor shall file its appeal within seven days of the publication of their prequalification factor.
   E. The appeal filed must conform to the requirements below and contain the following information:
      (1) The appeal shall be in writing.
      (2) Appeals made by electronic mail shall not be considered.
      (3) The appeal shall clearly and concisely state the party’s right to appeal, the grounds for appeal, the requested relief, and contain relevant laws, rules, regulations and documents to support the appeal.
         (a) Sufficient copies of cited laws, rules, regulations, or documentary evidence shall be included with the appeal.
         (b) Supporting documentary evidence not submitted at the time of filing the appeal shall be submitted no later than five days before the hearing.
      (4) The documents submitted in the appeal process shall not be considered confidential and will be subject to the Inspection of Public Records Act, Sections 14-2-1 to 14-2-12 NMSA 1978 (1993, as amended through 2011).
   F. Service of the appeal shall occur as follows:
      (1) A contractor disputing its prequalification factor shall serve the appeal upon the New Mexico department of transportation’s cabinet secretary. The contractor shall contemporaneously provide a copy of the appeal to the office of the general counsel and the office of inspector general at the respective address for each.
      (2) Service upon the cabinet secretary must be made either in person, by certified mail return receipt requested, or by delivery by a nationally recognized courier.
      (3) Service must be made during regular business hours.
      (4) Service made outside of regular business hours will be considered effective the next business day.
   G. 10 days after receipt of a timely and complete appeal the cabinet secretary shall provide the following:
      (1) Notice to all parties advising the parties that an informal hearing will be convened and designating a neutral hearing officer or designating himself as the hearing officer.
      (2) Within seven days of the cabinet secretary’s designation the hearing officer will provide a notice to all parties of hearing with the date, time and location of the hearing. The notice of hearing will be provided no later than seven days before the chosen hearing date for the informal hearing.
   H. The formal rules of civil procedure, formal discovery processes, and the formal rules of evidence shall not apply to the informal hearing.
      (1) Any party to the appeal may choose to have legal counsel present.
      (2) The hearing officer has the authority to determine the degree of formality of the hearing.
(3) The hearing officer has the authority to determine the total time allotted for the informal hearing and how the time will be apportioned between the parties.

I. The hearing officer shall be responsible for maintaining a record of the evidence and proceedings.
   (1) The hearing officer will weigh the credibility of the evidence provided by both parties.
   (2) The hearing officer may use any reliable information, no matter the source, in arriving at a determination.
   (3) If the hearing officer uses information in the determination not provided by either party then the hearing officer will allow a reasonable amount of time for rebuttal from either party.

J. The hearing officer shall issue a decision regarding the appeal within seven days of the hearing unless otherwise extended by the hearing officer in writing.
   (1) The hearing officer’s decision will constitute the final department action on the appeal.
   (2) No further action on the appeal may be taken by the either party if the hearing officer’s decision is accepted by both parties.
   (3) If the appealing party does not fully accept the hearing officer’s decision then the appealing party may proceed with litigation in state district court by filing the appropriate pleadings.

K. Record of the appeal through the hearing officer’s decision will be maintained by the office of inspector general for seven years after the date of the informal hearing.

L. For bidding purposes and during the period of appeal the contractor’s previous prequalification factor will apply.

[18.27.5.13 NMAC - N, 01-01-15]

18.27.5.14 PREQUALIFICATION COMMITTEE: Members of the prequalification committee will be designated by the cabinet secretary of the New Mexico department of transportation and shall meet annually to review the prequalification process. Any information reported by a prime contractor or subcontractor during the prequalification process may be reviewed by the prequalification committee to determine responsibility.

[18.27.5.14 NMAC - N, 01-01-15]

18.27.5.15 PREQUALIFICATION FOR CONSOLIDATED COMPANIES, JOINT VENTURES AND OTHER SPECIAL BUSINESS FORMATIONS: The following prequalification packet procedure and Pqfra will apply to consolidated companies, consolidated companies related by common ownership and joint ventures:

A. For consolidated companies not related by common ownership and the parent company is not included in the consolidation each subsidiary within the consolidated company must be individually prequalified before a notice to proceed will be issued for the project. The Pqfra scores of the subsidiaries survive the merger or consolidation and the highest Pqfra of the subsidiaries joined by consolidation will be used for the modified bid amount.

B. For consolidated companies related by common ownership each subsidiary and parent company in the merger or consolidated company must be individually prequalified before a notice to proceed will be issued for the project. The Pqfra scores of the subsidiaries survive the merger or consolidation and the highest Pqfra of the subsidiaries or parent company joined by consolidation will be used for the modified bid amount.

C. Each prime contractor participating in the joint venture must be individually prequalified seven days before bid opening to join forces as a joint venture for bidding and performing work related to a single project. The joint venture itself need not prequalify.
   (1) In addition to being individually prequalified each prime contractor participating in the joint venture shall file with the office of inspector general a statement of joint venture.
   (2) For joint ventures the higher value of all joint venture applicant’s Pqfra will be used for the modified bid amount.

[18.27.5.15 NMAC - Rp, 18.27.5.15, 01-01-15]

18.27.5.16 ADOPTION OF THE NEW MEXICO STATE DEPARTMENT OF TRANSPORTATION CURRENT EDITION OF THE STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION: This rule adopts by reference the current edition of the New Mexico state department of transportation standard specifications for highway and bridge construction, as amended by this rule.

[18.27.5.17 NMAC - N, 01-01-15]

HISTORY OF 18.27.5 NMAC:

18.27.5 NMAC
Pre-NMAC History: None

History of the Repealed Material:
18 NMAC 27.5, Highway Construction General Provisions-Contractor Prequalifications, filed 11/13/98. This was a temporary rule expiring 120 days from effective date of 11/30/98.
18.27.5 NMAC, Contractor Prequalification Rule, (filed 12/07/00) repealed and replaced by 18.27.5 NMAC, Contractor Prequalification Rule, effective 01/01/15.