

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 36 ELECTION FUND GRANTS, REIMBURSEMENTS AND REPORTING

1.10.36.1 ISSUING AGENCY: Office of the Secretary of State.
[1.10.36.1 NMAC - N, 7/1/2023]

1.10.36.2 SCOPE: This rule applies to any statewide elections required by the Election Code.
[1.10.36.2 NMAC - N, 7/1/2023]

1.10.36.3 STATUTORY AUTHORITY: Section 1-11-19 NMSA 1978; Section 1-2-1 NMSA 1978.
[1.10.36.3 NMAC - N, 7/1/2023]

1.10.36.4 DURATION: Permanent
[1.10.36.4 NMAC - N, 7/1/2023]

1.10.36.5 EFFECTIVE DATE: July 1, 2023, unless a later date is cited at the end of a section.
[1.10.36.5 NMAC - N, 7/1/2023]

1.10.36.6 OBJECTIVE: To establish the procedure for election grants, reimbursements and reporting between the secretary of state and county clerks for the purposes of paying the costs of conducting and administering statewide elections required by the Election Code.
[1.10.36.6 NMAC - N, 7/1/2023]

1.10.36.7 DEFINITIONS:

A. “Compensation for poll workers, election board members, and messengers” means the compensation to members of an election board on Election Day and members of an election board and messengers assigned to alternate voting or alternate mobile voting locations or absent voter precincts, provided that:

(1) Election board members on Election Day shall be compensated up to \$400 pursuant to Section 1-2-16 NMSA 1978. Compensations for training provided prior to Election Day is not subject to the \$400 statutory limitation.

(2) Members of an election board and messengers assigned to alternate voting or alternate mobile voting locations, monitored secured containers, or absent voter precincts shall be compensated no less than the minimum wage of the state of New Mexico and no more than double the minimum wage of the state of New Mexico.

B. “Election equipment” means tabulators, ballot on demand systems, same-day voter registration tablets, and ancillary equipment used to cast and count votes, designed to print or to make ballots at a polling location, or considered a component of a voting system under Section 1-9-1 NMSA 1978 and includes:

(1) The number of tabulators pursuant to Section 1-9-7 NMSA 1978

(2) The number of ballot on demand systems pursuant to the formula developed by the secretary of state pursuant to Section 1-9-5 NMSA 1978.

C. “Eligible expenses” means expenditures necessary for conducting and administering statewide elections or post-election canvass as statutorily required by the Election Code and include:

(1) All necessary and reasonable expenses incurred by a county clerk for compliance with the Native American Voting Rights Act, including the costs of election equipment, translation, and personnel for polling places and monitored secured containers on Indian nation, tribal, or pueblo land.

(2) Ballot and ballot permit paper.

(3) Compensation for poll workers, election board members, and messengers.

(4) Election equipment.

(5) Election supplies.

(6) Election publications as required by the Election Code.

(7) Language interpreters.

(8) Office supplies.

(9) Postage.

(10) Recount costs.

(11) Tabulator delivery.

(12) Tabulator programming.

(13) Vendor support.

D. “Election supplies” means supplies necessary for conducting and administering statewide elections statutorily required by the Election Code and include test decks for the purposes of certifying voting machines.

E. “Ineligible expenses” means expenditures that are not necessary and reasonable for the administration of a statewide election or post-election canvass as determined by the secretary of state.

F. “Office supplies” means consumable office supplies purchased for conducting and administering statewide elections as required by the Election Code. Such supplies are limited to items required to conduct the election and post-election canvass including paper, ballot marking pens, pencils, paperclips, staples etc.

[1.10.36.7 NMAC - N, 7/1/2023]

1.10.36.8 MEMORANDUMS OF UNDERSTANDING:

A. The secretary of state shall provide memorandums of understanding (MOUs) to each county for the granting of funds to cover eligible expenses for a statewide election at least ninety days prior to election day.

B. The secretary of state and county clerks shall finalize and sign MOUs at least 60 days prior to Election Day.

C. Should a MOU between the secretary of state and a county clerk fail to be finalized 60 days prior to an election, counties shall only be reimbursed for eligible expenses as outlined in 1.10.36 NMAC and will only be reimbursed upon finalization of an executed MOU.

D. The secretary of state is not responsible for entering into MOUs for the administration of the municipal officer election occurring in even-numbered years. However, county clerks may finalize and sign MOUs with municipalities participating in those elections.

E. The secretary of state is not responsible for entering into MOUs for the administration of special elections. However, county clerks may finalize and sign MOUs with local public bodies participating in those elections.

[1.10.36.8 NMAC - N, 7/1/2023]

1.10.36.9 ADDITIONAL AND INELIGIBLE EXPENSES:

A. If election costs incurred to a county exceed the initial amount provided through a MOU, the county may request reimbursement no later than 45 days after a statewide election using a prescribed form provided by the secretary of state with a description detailed enough to directly associate the expense to the election. Additional costs are not guaranteed to be reimbursed but shall be reimbursed by the secretary of state if they are determined to be eligible expenses as outlined in 1.10.36.7 NMAC.

B. The secretary of state shall not reimburse ineligible expenses. The secretary of state shall utilize historical data including voter turnout to make determinations regarding eligibility of expenses.

[1.10.36.9 NMAC - N, 7/1/2023]

1.10.36.10 REPORTING REQUIREMENTS:

A. Each county clerk shall file a report of expenditures with the secretary of state no later than 45 days after a statewide election for timely reimbursement and/or accounting. The report shall include an official form provided by the secretary of state as well as descriptions with a description detailed enough to directly associate the expense to the election with line-item reporting of expenditures incurred such that the secretary of state can reconcile each expense by counties during the election.

B. County clerks shall return any unused funds via physical check made out to the office of the secretary of state no later than 45 days after a statewide election.

C. If a county clerk does not file expenditure reports by the deadline established in Section A of 1.10.36.10 NMAC, the county shall be reimbursed after a report is filed and as funds become available for reimbursement.

[1.10.36.10 NMAC - N, 7/1/2023]

HISTORY OF 1.36.11 NMAC: [RESERVED]