

TITLE 13 INSURANCE
CHAPTER 22 AUTOMOBILE THEFT PREVENTION AUTHORITY
PART 2 BOARD AND GRANT ADMINISTRATION

13.22.2.1 ISSUING AGENCY: Office of Superintendent of Insurance (“OSI”).
[13.22.2.1 NMAC – N, 01/01/2023]

13.22.2.2 SCOPE: This rule applies to the activities of the New Mexico Automobile Theft Prevention Authority (“NMATPA”) board and to its review, approval and administration of grants pursuant to Section 59A-16C-17 NMSA 1978.
[13.22.2.2 NMAC – N, 01/01/2023]

13.22.2.3 STATUTORY AUTHORITY: Sections 59A-16C-5, 59A-16C-16 and 59A-16C-17 NMSA 1978.
[13.22.2.3 NMAC – N, 01/01/2023]

13.22.2.4 DURATION: Permanent.
[13.22.2.4 NMAC – N, 01/01/2023]

13.22.2.5 EFFECTIVE DATE: January 1, 2023, unless a later date is cited at the end of a section.
[13.22.2.5 NMAC – N, 01/01/2023]

13.22.2.6 OBJECTIVE: This rule establishes definitions and procedures for the conduct of business by the NMATPA board and for the review, approval and administration of grants made by that board pursuant to Section 59A-16C-17 NMSA 1978.
[13.22.2.6 NMAC – N, 01/01/2023]

13.22.2.7 DEFINITIONS:

- A. “Automobile theft prevention authority” or “ATPA”** has the meaning provided in Section 59A-16C-17 NMSA 1978.
- B. “Automobile”** means a motor vehicle or vehicle.
- C. “Board of directors” or “board”** means the board of directors of the automobile theft prevention authority that is appointed in accordance with Subsection A of Section 59A-16C-17 NMSA 1978.
- D. “Executive director”** means a supervising prosecuting attorney of the OSI, as designated by the superintendent of insurance.
- E. “Grant announcement”** means an announcement by the board or executive director that grant funding is available. The announcement shall include a reference to all required application materials and the deadline for submission of grant applications.
- F. “Grant award”** means a final decision of the NMATPA board to award a grant to a qualified applicant.
- G. “Grant award contract”** means a written contract that arises as the direct result of a grant award and sets out the respective duties and obligations of NMATPA and a grant awardee. An attorney designated by the superintendent of insurance shall review every grant award contract before the contract is signed. The reviewing attorney shall not be the executive director of NMATPA.
- H. “Grant awardee”** means a qualified applicant whose grant application has been approved by the board and to whom notification of a grant award has been sent in accordance with this rule.
- I. “Grant cycle”** means the period of time between the grant announcement and a grant award.
- J. “Grant managers guidance manual” or “GMG”** means the most current publicly available version of the guidance manual approved by the board for providing information on grant application requirements and processes. The ATPA board shall update the GMG annually.
- K. “Grant recipient”** means a grant awardee.
- L. “Motor vehicle”** has the meaning provided in the Motor Vehicle Code, Chapter 66, Article 1 NMSA 1978.
- M. “New Mexico automobile theft prevention authority” or “NMATPA”** means the automobile theft prevention authority established for the state of New Mexico by Section 59A-16C-17 NMSA 1978.

N. **“NMATPA administration”** means the OSI staff responsible for the day-to-day operations and support of the board.

O. **“Qualified applicant”** means a state, local or regional law enforcement agency or task force that demonstrates that its proposed program satisfies grant requirements and addresses a significant aspect of automobile theft prevention.

P. **“Vehicle”** has the meaning provided in the Motor Vehicle Code, Chapter 66, Article 1 NMSA 1978.

[13.22.2.7 NMAC – N, 01/01/2023]

13.22.2.8 **BOARD OF DIRECTORS:**

A. **Board responsibilities.** The main responsibility of the board is to administer and manage grants made in accordance with Section 59A-16C-17 NMSA 1978. The duties of the board include, without limitation:

- (1) reviewing grant applications;
- (2) awarding grants consistent with the criteria set forth in this rule;
- (3) reviewing grant reports and compliance by grantees; reporting on the work of the board

as required by law; and

(4) other duties consistent with Section 59A-16C-17 NMSA 1978, as may be from time to time determined by a majority vote of the board. The executive director may request that the board undertake additional duties on a temporary basis in order to facilitate the orderly implementation of this rule.

B. **Board meetings.** All meetings of the board shall be held in compliance with the Open Meetings Act, Chapter 10, Article 15 NMSA 1978. The board shall meet at least once every three months, except that the board may, at the call of the chair or at the request of the executive director, or by majority vote, decide to meet more frequently. All meetings of the board shall be recorded and transcribed, and NMATPA will post the transcriptions on the official OSI website. A board meeting may be held in person or virtually. A quorum of the board shall consist of five members of the board and may be achieved through participation in a virtual meeting.

C. **Board actions.** A quorum of the board shall review the grant applications. A majority of the board shall approve the grant awards. The board may adopt additional policies and procedures governing its processes.

[13.22.2.8 NMAC – N, 01/01/2023]

13.22.2.9 **EXECUTIVE DIRECTOR:** The executive director of the NMATPA shall serve ex officio in an official capacity as a supervising prosecuting attorney of OSI.

A. **Duties of executive director.** The executive director shall have the following duties:

- (1) directing the NMATPA administration, as defined in Section 7 of this rule;
- (2) preparing the agenda for board meetings, in consultation with the members of the board;
- (3) posting meeting agendas as required by the Open Meetings Act; and
- (4) other duties not inconsistent with the executive director’s general scope of work as may

from time to time be conferred by the board.

B. **Authority of executive director.** The executive director shall have the following authority:

- (1) calling a meeting of the board;
- (2) signing grant award contracts, as defined in Section 7 of this rule, on behalf of the

NMATPA; and

- (3) such other authority as may be necessary to carry out the duties of the executive director.

[13.22.2.9 NMAC – N, 01/01/2023]

13.22.2.10 **GRANT MANAGERS GUIDANCE MANUAL (“GMG”):** The board shall annually review, approve and adopt the NMATPA GMG during one or more board meetings. As soon as practicable after the board’s annual review, approval and adoption of the GMG, the executive director will publish the GMG by posting a copy of the GMG on the official OSI website.

A. **GMG content.** The board shall use its best judgment to determine the content of the NMATPA GMG with the following goals in mind:

- (1) Clarity of purpose;
- (2) Completeness of content;
- (3) Ease of comprehension; and
- (4) Ease of use.

B. GMG designation. The board may designate an existing GMG for continued use by clearly designating an existing GMG as the most current version. The board may adopt one or more GMGs from other states and jurisdictions that have adopted a GMG, consistent with applicable copyrights and authorship laws. The board may adopt a complete version of the GMG, an abridged version, or both in order to facilitate outreach to intended audiences as the board may deem appropriate. If more than one version is adopted, then each version shall be clearly marked as to its intended use.

C. Current version of GMG. The board shall designate which version of a complete GMG is the most current version and shall post only that version on the official OSI website. The most current GMG shall control for purposes of reviewing, approving and awarding grants; reviewing and reporting compliance with grants; and in case of a discrepancy between versions.

D. Conflict between GMG and Rule. In the event of a conflict between the GMG and this rule, this rule shall control. All editions of the GMG adopted by the board shall state that this rule takes precedence over the GMG in the event of conflict.

[13.22.2.10 NMAC – N, 01/01/2023]

13.22.2.11 GRANT APPLICATIONS – SUBMISSION AND CONTENT:

A. Application submission period. The board will announce annually in writing the availability of grant funding and the start of the application submission period. OSI will publish the notice on the official OSI website and distribute the notice via email to all entities that have signed up for OSI’s newsletter email listserv.

B. Application format and required content. An application shall be in the form required by the grant announcement, consistent with the requirements set forth in Section 59A-16C-17 NMSA 1978, this rule and the NMATPA GMG. Grant application and approval forms shall be the most current version adopted by the board.

(1) A grant application shall describe, at minimum, the specific type of automobile theft prevention, enforcement, specialized training, prosecution or first-time offender rehabilitation program proposed.

(2) A grant application shall include or address all required information, forms, and instructions provided in the NMATPA GMG.

C. Method and delivery of application submission. Applications shall be filed with the board electronically as directed in the grant application, notice, or instructions.

D. Scope of grants. Possible funding categories for NMATPA grants include, without limitation:

(1) equipment for law enforcement;

(2) law enforcement services, including overtime pay;

(3) public awareness campaigns; and

(4) other goods or services that meet the objectives of Chapter 59A, Article 16C NMSA

1978.

[13.22.2.11 NMAC – N, 01/01/2023]

13.22.2.12 GRANT AWARDS: The NMATPA board shall award grants on a competitive basis, subject to available funding, and in accordance with the priorities described in this rule. There shall be no automatic entitlement to a grant, and the board shall not be required to award a grant if no application satisfies the criteria set forth in the applicable grant announcement.

A. Use of the NMATPA GMG. The board shall review applications consistent with Section 59A-16C-17 NMSA 1978, these rules, and the guidance set out in the most current version of the NMATPA GMG.

B. Multi-jurisdictional priority. The board shall give priority to those grant applications representing multi-jurisdictional programs. Applicants representing multiple jurisdictions may submit joint applications.

C. Minimum description required. An application shall, at a minimum, provide a thorough description of the type of automobile theft prevention, enforcement, specialized training, prosecution, or first-time offender rehabilitation program proposed. The minimum description shall include staffing, objectives, measurable goals and costs.

D. Applicable review guidelines. The board shall review each application to determine whether the submitting entity meets the definition of a qualified applicant. The board will then further review the applications received pursuant to the following guidelines:

(1) Whether the application identifies an automobile theft problem clearly, is measurable, and is supported by relevant statistical evidence;

(2) whether the application minimizes duplicative or overlapping existing programs;

- (3) whether the application provides a design wherein activities and goals are realistic and attainable;
- (4) whether the application displays innovation in its concept, design, or operation. A project is considered innovative if it provides a new and different strategy or approach that prevents, deters, intervenes or reduces the occurrence of automobile theft-related activity;
- (5) whether the application demonstrates a realistic cost structure as compared to its goals (cost compared to benefit);
- (6) whether the application includes a proposed evaluation design supported by relevant data to measure the effectiveness of the project and a plan for completing said evaluation consistent with applicable grant reporting requirements; and
- (7) whether the application was submitted timely and in the prescribed format in accordance with the applicable grant announcement.

E. Equitable review. The board will apply relevant statutes, this rule and the NMAPA GMG to ensure equitable review of grant applications received from law enforcement agencies and other qualified applicants.

F. Geographic distribution. The board will approve grants in a variety of geographic areas of the state to the extent that it is practicable to do so.

[13.22.2.12 NMAC – N, 01/01/2023]

13.22.2.13 GRANT AWARDS AND NOTIFICATION: Subject to available funds, the board will approve grants in accordance with Section 59A-16C-17 NMSA 1978, this rule and the guidance set forth in the most current version of the NMAPA GMG.

- A. Approval criteria.** In approving grants, the board shall consider the following criteria:
- (1) available funds;
 - (2) existing activities or programs addressing the same or substantially similar automobile theft problem;
 - (3) statistical analyses of automobile theft problems in the identified project area;
 - (4) cooperation and coordination with other agencies and projects to address automobile theft problems;
 - (5) proposed plan for automobile theft crime prevention, enforcement, prosecution and training;
 - (6) number of personnel involved in the proposed project; and
 - (7) the applicant’s experience, qualifications and past performance demonstrating ability to operate a proposed project successfully.

B. Grant awards. A quorum of the board shall review grant applications. A majority vote of the board shall be required for approval of a grant application.

C. Notification. Within 10 business days of a grant award, the executive director will notify each applicant in the current grant cycle of the board’s decision to approve or deny an application.

- (1) The board may condition a grant award on an applicant’s satisfaction of reasonable requirements in addition to those identified in the grant announcement and the NMAPA GMG.
- (2) The board shall not require as a condition of receipt of a grant that an agency, political subdivision, or other qualified applicant provide any additional monies to operate a recommended program.
- (3) An applicant may accept or decline a grant award consistent with the schedule set forth in the NMAPA GMG.

[13.22.2.13 NMAC – N, 01/01/2023]

13.22.2.14 GRANT EVALUATION PROCEDURES: So that the board can evaluate program success and compliance, all grant recipients must submit quarterly program and financial reports to the board following grant application approval and fund disbursement.

A. Reporting forms provided. The board will provide grant recipients with forms necessary to submit required quarterly financial and program progress/achievement reports.

B. Board review criteria. Board review of quarterly reports submitted by the grant recipients shall be consistent with identified goals and objectives of the NMAPA.

C. Program monitoring. The board will monitor program implementation, financial administration, and achievement of declared program objectives consistent with Section 59A-16C-17 NMSA 1978, this rule and the NMATPA GMG as applicable.

D. Board feedback. The board will provide feedback to grant recipients submitted or failing to submit required quarterly reports, or as is appropriate and consistent with statute, the goals and objectives of the NMATPA, this rule and the NMATPA GMG.

E. Failure to perform. A program that is failing to perform will be given written notice at least 30 days prior to implementation of any remedies identified in this subsection and may request board review of the contemplated action. In the event that a grant recipient fails to perform or complete required quarterly financial and program progress and achievement reports, the board may:

- (1) elect to apply a program improvement plan to the recipient to rehabilitate performance;
- (2) recommend to the superintendent or the superintendent's designee for revocation or suspension of recipient's grant agreement; or
- (3) recommend to the superintendent or the superintendent's designee that reimbursement for expenses be denied.

F. Future consideration: Failure to perform or rehabilitate may affect future consideration of applications submitted to the board by the same applicant.

[13.22.2.14 NMAC – N, 01/01/2023]

History of 13.22.2 NMAC: [RESERVED]