

TITLE 2 PUBLIC FINANCE
CHAPTER 110 LOCAL GOVERNMENT GRANTS
PART 3 LAW ENFORCEMENT PROTECTION FUND DISTRIBUTION

2.110.3.1 ISSUING AGENCY: Department of Finance, and Administration, Local Government Division.
[2.110.3.1 NMAC - Rp, 2 NMAC 110.3.1, 12/27/2017]

2.110.3.2 SCOPE: These rules and regulations shall apply to all governmental entities that have participated in and received money from the fund or that expect to qualify to participate in the annual distribution of the fund.
[2.110.3.2 NMAC - Rp, 2 NMAC 110.3.2, 12/27/2017]

2.110.3.3 STATUTORY AUTHORITY: The division makes these rules pursuant to the authority of the Law Enforcement Protection Fund Act, being Sections 29-13-1 through 29-13-9 NMSA 1978, as amended.
[2.110.3.3 NMAC - Rp, 2 NMAC 110.3.3, 12/27/2017]

2.110.3.4 DURATION: Permanent.
[2.110.3.4 NMAC - Rp, 2 NMAC 110.3.4, 12/27/2017]

2.110.3.5 EFFECTIVE DATE: December 27, 2017, unless a different date is cited at the end of a section or paragraph.
[2.110.3.5 NMAC - Rp, 2 NMAC 110.3.5, 12/27/2017]

2.110.3.6 OBJECTIVE: These rules and regulations provide procedures for applying for participation in the annual distribution of the fund and clarify the eligible uses of the fund.
[2.110.3.6 NMAC - Rp, 2 NMAC 110.3.6, 12/27/2017]

2.110.3.7 DEFINITIONS:

- A.** "Academy" means the New Mexico law enforcement academy.
 - B.** "Accumulation" means holding funds from year to year to create a balance at the governmental entity level.
 - C.** "Applicant" means any governmental entity allowed by law to seek participation in the distribution from the fund.
 - D.** "Carryover" means, with the written approval of the division, retaining an unexpended award amount remaining at the end of one fiscal year and applying it to the immediately succeeding fiscal year only.
 - E.** "Division" means the local government division of the department of finance and administration.
 - F.** "Fund" means the law enforcement protection fund created in the Law Enforcement Protection Fund Act, as amended.
 - G.** "Governmental entity" means the academy, a municipality, university, tribe or pueblo located wholly or partly in New Mexico, or a county.
 - H.** "Tribal police department" means any tribal or pueblo police department that has entered into an agreement with the department of public safety pursuant to Section 29-1-11 NMSA 1978. The law enforcement agencies of the bureau of Indian affairs do not qualify because they are federal agencies.
- [2.110.3.7 NMAC - Rp, 2 NMAC 110.3.7, 12/27/2017]

2.110.3.8 ELIGIBLE USES OF FUND:

- A.** The fund shall be used only for the purposes set forth in the Law Enforcement Protection Fund Act, as amended, including but not limited to Section 29-13-7 NMSA 1978.
- B.** Eligible expenditures may include but are not limited to:
 - (1) law enforcement equipment;
 - (2) guns, holsters, surveillance equipment, vehicles, uniforms, belts, badges and related apparatus to be used by law enforcement personnel;
 - (3) computers, printers, phones, fax machines, copy machines, software and projectors which are used by sheriffs or police officers;
 - (4) advanced law enforcement training manuals;

(5) advanced law enforcement planning and training in New Mexico or out of New Mexico if a comparable level of training is not available;

(6) purchasing, certifying and training of dogs in K-9 units;

(7) purchase of law enforcement equipment, including protective vests, for police dogs;

(8) mileage and per diem for advanced law enforcement training or planning;

(9) conferences associated with advanced law enforcement training and planning; and

(10) for the academy, providing tourniquet and trauma kits and training on the use of

tourniquet and trauma kits.

C. Ineligible expenditures include but are not limited to:

(1) operating expenses, including but not limited to maintenance agreements, paper and ink for fax or copy machines, phone bills or supplies;

(2) desks, chairs and file cabinets;

(3) educational costs not associated with advanced law enforcement training or planning;

(4) district attorney investigators and attorney general investigators; and

(5) kitchen appliances and bathroom accessories.

[2.110.3.8 NMAC - Rp, 2 NMAC 110.3.8, 12/27/2017]

2.110.3.9 PROCEDURES FOR LAW ENFORCEMENT PROTECTION FUND DISTRIBUTION:

A. All applicants must use the forms prescribed by the division, which will be available on the division's website by March 1. It is the ultimate responsibility of each governmental entity to ensure they receive an application.

B. Every governmental entity seeking to participate in the distribution of the fund shall submit an application to the division by March 31. Late applications will not be considered absent a showing of unusual circumstances. The division director shall review the unusual circumstances associated with any late applications and determine whether the division will accept the late application.

C. Sufficient and accurate information shall be given on each application to establish the need and eligibility for funds. The division reserves the right to request further information if the division receives an incomplete application; however, the division is not obligated to make such requests. Incomplete applications shall be given 10 days from the date of notification from the division to complete the application. Late applications that are incomplete may be given less than 10 days from the date of notification to complete the application, if necessary for the division to comply with the timeline established in these rules, in the discretion of the division director.

D. The application must be signed by the chief law enforcement officer and head of the governmental entity certifying that the information is accurate.

E. On or before April 15, the division shall consider and determine the needs of the applicants.

F. On or before May 1, the division shall notify each applicant in writing of the amount of distribution the applicant will receive. The division's decision will be based on Section 29-13-4 NMSA 1978, as amended.

(1) Any applicant may appeal the division's decision by filing a written notice of appeal with the secretary of finance and administration no later than May 15.

(2) The secretary of finance and administration shall review the division's determination in an informal and summary proceeding and shall certify the result of the appeal to the division no later than June 30. The division shall adjust its determination if the secretary of finance and administration approves the appeal.

(3) If no appeal is filed, the determination of the division shall be final and binding on May 15 and not subject to further review.

G. The division will certify and approve periodic allotments to be distributed from the fund by the state treasurer in accordance with Section 29-13-6 NMSA 1978, as amended.

[2.110.3.9 NMAC - Rp, 2 NMAC 110.3.9, 12/27/2017]

2.110.3.10 LIMITATIONS OF USES:

A. Amounts distributed from the fund shall be:

(1) expended only for the specific purposes as stated in the approved application; and

(2) expended pursuant to approved budgets and upon duly executed vouchers.

B. Any changes to the budget require prior written approval by the division.

C. The distributions from the fund are to be expended, not accumulated, except as provided for the peace officers' survivors fund. Any unexpended award amount remaining at the end of a fiscal year may be carried over to a succeeding fiscal year only with prior written approval from the division. An applicant wishing to request

such a carryover must submit a request in writing to the division by July 31 explaining the unusual circumstances requiring an unexpended amount to be carried over to the succeeding fiscal year. The division director will review the unusual circumstances associated with the unexpended amount and determine whether the amount may be carried over.

D. Interest earned through a governmental entity's deposit of unexpended amounts distributed from the fund must be used only for purposes allowed under the Law Enforcement Protection Fund Act. Because the fund is not intended for accumulation, unexpended amounts distributed from the fund are not allowed for long-term investment purposes.

E. As a prerequisite to applying for an award from the fund, governmental entities agree that any consideration received from the sale or trade of any item purchased in whole or in part with monies distributed in any fiscal year from the fund shall revert to the governmental entity's fund within six months of the governmental entity's receipt of such consideration to be used for fund allowable purposes. A reversion is not required if the consideration was taken as a trade towards the purchase of items to be used for fund allowable purposes.
[2.110.3.10 NMAC - Rp, 2 NMAC 110.3.10, 12/27/2017]

HISTORY OF 2.110.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
LGD Rule 84-1, Relating to the Law Enforcement Protection Fund Act, filed 2/22/1984.

History of Repealed Material: 2 NMAC 110.3, Law Enforcement Protection Fund Distribution, filed 9/17/1996 - Repealed effective 12/27/2017.

Other History: 2 NMAC 110.3, Law Enforcement Protection Fund Distribution, (filed 9/17/1996) was replaced by 2.110.3 NMAC, Law Enforcement Protection Fund Distribution, effective 12/27/2017.