

This is an amendment to 6.27.2 NMAC, sections 8, 9, and 10. The amendment also repeals section 12 in its entirety.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
PART 2 APPLICATION AND ~~AWARD~~ GRANT PROCEDURES

6.27.2.1 ISSUING AGENCY: Public School Capital Outlay Council
[6.27.2.1 NMAC - N, 11/14/2000]

6.27.2.2 SCOPE: Public School Capital Outlay Council and public school districts
[6.27.2.2 NMAC - N, 11/14/2000]

6.27.2.3 STATUTORY AUTHORITY: The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.
[6.27.2.3 NMAC - N, 11/14/2000]

6.27.2.4 DURATION: Permanent
[6.27.2.4 NMAC - N, 11/14/2000]

6.27.2.5 EFFECTIVE DATE: November 14, 2000 unless a later date is cited at the end of a section.
[6.27.2.5 NMAC - N, 11/14/2000]

6.27.2.6 OBJECTIVE: The objective of the rule is to establish application and grant procedures pursuant to the Public School Capital Outlay Act.
[6.27.2.6 NMAC - N, 11/14/2000]

6.27.2.7 DEFINITIONS:

A. "Critical need" means that the project for which funding is requested addresses at least one of the following circumstances:

- (1) health and safety problems at the facility;
- (2) an immediate need for additional classrooms to relieve student overcrowding; or
- (3) renovation projects that will forestall substantial capital outlay costs in the future.

B. "fund" means the Public School Capital Outlay Fund;

C. "MEM" means the total enrollment of students attending public school in a school district in the final funded prior school year. Kindergarten membership will be calculated in accordance with the provisions of the Public School Finance Act.

D. "maintenance" means the regular upkeep or preservation of condition of school buildings, including cost of ordinary repairs necessary and proper from time to time for that purpose.

E. "on-site visitation team" means staff as assigned by Council members to visit applicant districts.
[6.27.2.7 NMAC - N, 11/14/2000]

~~**6.27.2.8 CRITERIA FOR ELIGIBILITY**~~

~~A. An application is eligible for consideration for a grant from the fund upon a determination by the Council that:~~

- ~~(1) a critical need exists requiring action;~~
- ~~(2) the residents of the school district have provided available resources to the school district to meet its capital outlay requirements. This criterion is met by the applicant school district imposing a two (2) mill levy for the fiscal years in which the allocation will be distributed in accordance with the Public School Capital Improvement Act (Sections 22-25-1 through 22-25-10 NMSA 1978);~~
- ~~(3) the school district has used its capital resources in a prudent manner;~~
- ~~(4) the school district is in a county or counties which have participated in a reappraisal program and the reappraised values are on the tax rolls as certified by the property tax division of the taxation and revenue department;~~
- ~~(5) the school district has insured buildings under its control against property and casualty losses in accordance with the provisions of Section 13-5-3 NMSA 1978;~~

~~_____ (6) unless a determination has been made by the Council and certified to the State Board of Education that, after January 1, 2001, either a constitutional amendment has been adopted that provides additional or supplemental revenue sources for public school capital outlay funding or another long term revenue source exists that is expected to exceed sixty million dollars (\$60,000,000) per year:~~

~~_____ (a) the school district is indebted at not less than seventy five percent of the total debt authorized by law; or~~

~~_____ (b) within the last three years immediately prior to the year for which the application for funding is made, the school district was indebted at not less than seventy five percent of the total debt authorized by law and received a grant from the Council for the initial stages of a project and currently has a critical need for an additional amount to complete the same project; and~~

~~_____ (7) the school district has submitted a five year facilities plan that includes enrollment projections.~~

~~_____ B. If a determination has been made by the Council and certified to the State Board of Education that, after January 1, 2001, either a constitutional amendment has been adopted that provides additional or supplemental revenue sources for public school capital outlay funding or another long term revenue source exists that is expected to exceed sixty million dollars (\$60,000,000) per year, in all subsequent application and allocation cycles all school districts are eligible to apply for funding from the fund.]~~

6.27.2.8 CRITERIA FOR ELIGIBILITY. An application is eligible for consideration for a grant from the fund upon a determination by the Council that:

A. a need exists requiring action;

B. the residents of the school district have provided available resources to the school district to meet its capital outlay requirements. This criterion is met by the imposition of a two (2) mill levy in accordance with the Public School Capital Improvements Act (Sections 22-25-1 through 22-25-10 NMSA 1978) for the calendar year in which the grant is made;

C. the school district has used its capital resources in a prudent manner;

D. the school district has insured buildings under its control against property and casualty losses in accordance with the provisions of Section 13-5-3 NMSA 1978;

E. the school district:

(1) is indebted at not less than sixty-five percent of the total general obligation debt authorized by law; or

(2) within the last three years immediately preceding the year for which the application for funding is made, the school district was indebted at not less than sixty-five percent of the total debt authorized by law and received a grant from the Council for the initial stages of a project and currently has a critical need for an additional grant to complete the same project;

F. the school district has submitted a five-year facilities plan that includes:

(1) The school district's mission statement, facility goals and objectives, and the steps taken by the school district to address the priority of needs. The goals and objectives should include student education and community involvement.

(2) The steps taken to assess its needs in relationship to its mission and goals and the evaluation of the priority of those needs.

(3) A map of the school district addressing, at a minimum, the following factors: location of all current sites, land owned by the school district, location of any planned expansion (indicating whether the site is owned by the school district), school district growth areas, and other school district facilities.

(4) Background information on each current school district site, including a description of the facility, maximum student capacity of the facility, age of the building and other factors unique to the facility. The background information must include a schematic that provides: year built, date(s) of additions, renovations and remodels, classroom square footage, total site acreage, replacement cost, and future expansion capacity.

(5) The school district's self-needs assessment procedure and periodicity. The description must address the school district's evaluation criteria and basis for priority order and assignment of evaluation criteria, and comparison of cost of requested new construction with remodeling and/or renovation cost.

(6) School district membership trends for the most recent three-year period and enrollment projections for the next three-year period.

(7) All projects listed and prioritized by individual school site. The list should include the funding source anticipated for each project; and

(8) a current preventative maintenance plan to which the school adheres for each public school in the district; and

G. the application includes:

(1) the capital needs of any charter schools located in the school district or the school district has shown that the capital needs of the charter schools are not as great as the capital needs requested in the application; and

(2) the facilities needed in the school district to implement a full-day kindergarten program or a showing that the need for facilities to implement the program is not as great as the capital needs requested in the application.

[6.27.2.8 NMAC - N, 11/14/2000; A, 3/29/02]

6.27.2.9 PRIORITIES FOR FUNDING

A. Priorities for funding shall be given to those capital projects that:

- (1) are necessary for health and safety;
- (2) were previously funded by the Council but are not yet completed;
- (3) are for school districts with low assessed valuation compared to other districts;
- (4) provide necessary classrooms due to student population increases or that improve existing school facilities, including portable classroom facilities that have been used for a long period of time; and
- (5) are renovation projects that will forestall substantial capital outlay costs in the future rather than new construction, unless health and safety concerns require new construction.

B. In establishing the priority for capital projects to be funded, the Council shall consider:

- (1) the school district's total assessed valuation per student relative to other school districts in the State;
- (2) the school district's remaining bonding capacity calculated from its bonding capacity on May 15 of the award year, as determined annually by the capital outlay unit;
- (3) other sources of revenue available to the school district for capital outlay projects; and
- (4) whether the project is shown as a priority project in the school district's most recent five year facilities plan.

C. Maintenance projects will not be funded from money allocated to the Council.]

6.27.2.9 GRANTS

A. The Council will consider all applications meeting the requirements of this rule and, after public hearing, will either approve or deny each application. The Council will prioritize all applications and all allocations will be made on a priority basis, except:

(1) twenty million dollars (\$20,000,000) of the proceeds from supplemental severance tax bonds available for the funding cycle in fiscal years 2002 and 2003 will be set aside solely for projects in school districts that are eligible for grants from the fund and that receive grants from the federal government as assistance to areas affected by federal activity in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid";

(2) in the case of an emergency as determined by the Council, the order of priority will first reflect those projects previously funded but not yet completed, excluding expansion of those projects, and contingent upon maintenance of the required local support; and

(3) the total amount of assistance grants made in a fiscal year for the purpose of implementing full-day kindergarten programs shall not exceed five million dollars (\$5,000,000)

B. Priorities for funding shall be given to those capital projects that:

- (1) are necessary for health and safety;
- (2) were previously funded by the Council but are not yet completed;
- (3) are for school districts with low assessed valuation compared to other districts;
- (4) provide necessary classrooms due to student population increases or that improve existing school facilities, including portable classroom facilities that have been used for a long period of time; and
- (5) are renovation projects that will forestall substantial capital outlay costs in the future rather than new construction, unless health and safety concerns require new construction.

C. In establishing the priority for capital projects to be funded, the Council shall consider:

- (1) the school district's total assessed valuation per student relative to other school districts in the State;
- (2) the school district's remaining bonding capacity calculated from its bonding capacity on May 15 of the grant year, as determined annually by the capital outlay unit;
- (3) other sources of revenue available to the school district for capital outlay projects; and

(4) whether the project is shown as a priority project in the school district's most recent five-year facilities plan.

D. Maintenance projects will not be funded from money allocated to the Council.

E. Grants for the capital needs of charter schools shall be contingent upon the submission of documentation sufficient to ensure that the provisions of Article IX, Section 14 of the New Mexico Constitution (the "anti-donation clause") are not violated.

[6.27.2.9 NMAC - N, 11/14/2000; A, 3/29/02]

6.27.2.10 CRITERIA AND STANDARDS

A. The five year facilities plan submitted by the school district must include the following components;

(1) The school district's mission statement, facility goals and objectives, and the steps taken by the school district to address the priority of needs. The goals and objectives should include student education and community involvement.

(2) The steps taken to assess its needs in relationship to its mission and goals and the evaluation of the priority of those needs.

(3) A map of the school district addressing, at a minimum, the following factors: location of all current sites, land owned by the school district, location of any planned expansion (indicating whether the site is owned by the school district), school district growth areas, and other school district facilities.

(4) Background information on each current school district site, including a description of the facility, maximum student capacity of the facility, age of the building and other factors unique to the facility. The background information must include a schematic that provides: year built, date(s) of additions, renovations and remodels, classroom square footage, total site acreage, replacement cost, and future expansion capacity.

(5) The school district's self needs assessment procedure and periodicity. The description must address the school district's evaluation criteria and basis for priority order and assignment of evaluation criteria, and comparison of cost of requested new construction with remodeling and/or renovation cost.

(6) School district membership trends for the most recent three year period and projections for the next three year period.

(7) All projects listed and prioritized by individual school site. The list should include the funding source(s) anticipated for each project.

B. Council staff will prepare and make available to school districts a detailed guide setting forth the recommended components of a school district master facility plan and short/long term maintenance plan.]

6.27.2.10 COUNCIL ASSISTANCE AND OVERSIGHT.

A. The Council will assist school districts in identifying capital outlay needs and in preparing grant applications.

B. The Council will take such actions as are necessary to assist school districts in implementing the projects for which grants are made, including assistance with the preparation of requests for bids or proposals, contract negotiations and contract implementation.

C. The Council will take such actions as are necessary to ensure costs savings and efficiencies for school districts that are not large enough to maintain their own construction management staff.

D. The Council will implement reporting requirements to ensure that grants pursuant to Section 22-24-5 NMSA 1978 are expended in the most prudent manner possible and in a manner consistent with the original purpose of the grant award. The Council may direct appropriate staff to access the premises of any project, review documentation relating to the project, and present staff findings and recommendations regarding the project to the Council.

E. Upon a staff recommendation that a grant is not being expended in the most prudent manner possible and in a manner consistent with the original purpose of the grant award, the Council will provide written notice to the school district setting forth the deficiencies in the school district's implementation of the project or projects. The school district will have thirty (30) days from the receipt of the notice to correct the deficiencies or to provide a written plan to the Council setting forth the procedure to correct the deficiencies. Staff will provide a recommendation to the Council as to whether the school district has corrected the deficiencies or has provided a plan sufficient to correct the deficiencies. Upon a staff recommendation that the school district has not satisfactorily acted to correct the deficiencies, the Council will provide written notice to the school district setting forth the date, time, and place for a meeting of the Council at which the school district may appear and show that it has corrected the deficiencies or has provided a plan sufficient to correct the deficiencies. Upon a determination by the Council

that the school district has not corrected the deficiencies or provided a plan sufficient to correct the deficiencies, the Council may withhold all or part of the grant available for the project.

F. Upon a staff recommendation that a school district has substantially failed to comply with reporting requirements or other conditions established by statute, rule, or the grant award, or has failed to timely provide a plan sufficient to correct deficiencies after a Council determination to withhold all or part of a grant pursuant to Subsection E of 6.27.2.10 NMAC, and upon a determination by the Council that the school district has been advised of its failure to comply and has failed to remedy the noncompliance, the Council will direct staff to take over the direct administration of the project until completion or until otherwise directed by the Council.

G. Council staff will prepare and make available to school districts a detailed guide setting forth the recommended components of a school district master facility plan and short/long term maintenance plan.
[6.27.2.10 NMAC - N, 11/14/2000; A, 3/29/02]

6.27.2.11 APPLICATION PROCESS

A. Applications are transmitted to local school districts to solicit tentative capital outlay requirements of the school districts. Local school boards will submit applications in the format specified by the Council in accordance with timelines established by the Council. The Council may allow local school boards, on a case-by-case basis, to amend their applications. Acceptable reasons for changing priorities are those directly related to a change in financial status or situations which have occurred since original submission (e.g., legislative appropriations for public school capital outlay projects in the school district, new bond issues, an emergency or safety issue). The amended application must also contain a cover letter stating reason(s) for the amendment. Local school boards are encouraged to make amendments to applications prior to the on-site visit. This will ensure that the on-site visitation team reviews the new request.

B. Applications will be reviewed in accordance with the following procedures:

- (1) Applications are screened for completeness and compliance.
- (2) On-site visits as necessary are made to the applicant districts.
- (3) Council staff reviews the applications and information obtained from the on-site visits.

C. Applicant schools are provided an opportunity to formally present their application to the Council at a public meeting.

D. Council staff compiles information regarding each application and presents this information to the Council subcommittee so that it may develop initial recommendations for the entire Council.

E. A Council subcommittee presents its recommendations to the full Council for consideration at a public meeting. The Council determines which projects are approved for funding and the allocation amounts each district will receive.

[6.27.2.11 NMAC - N, 11/14/2000]

6.27.2.12 ~~[DETERMINATION OF GRANTS: In determining allocations, the Council will ensure that at least twenty million (\$20,000,000) of the proceeds from supplemental severance tax bonds issued annually in fiscal years 2001 through 2003 be allocated solely for projects in districts that are eligible for funding and that receive grants from the federal government as assistance to areas affected by federal activity authorized by Title 20 of the United States Code, known as "PL 874 funds" or "impact aid."] [RESERVED]~~

[6.27.2.12 NMAC - N, 11/14/2000; Repealed, 3/29/02]

6.27.2.13 PORTABLE CLASSROOMS: Applications by school districts for use or return of state-owned portable classroom buildings must be submitted to the Council.

[6.27.2.13 NMAC - N, 11/14/2000]

HISTORY OF 6.27.2:

6.27.2.12, Determination of Grants – Repealed 3/29/02