

# **Administrative Guidelines**

## **Local DWI Grant Program**

**Local Government Division**  
**Department of Finance and Administration**

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## **OVERVIEW**

### **Mission Statement**

The mission of the Department of Finance and Administration (DFA), Local Government Division (Division), Local DWI (LDWI) Bureau is to reduce the incidence of DWI, alcoholism, alcohol abuse, and alcohol-related domestic violence.

### **Local DWI Grant Program – Statutory Authority**

The 1993 New Mexico Legislature enacted Laws of 1993, Chapter 65. A portion of the law created the Local DWI Grant Program Act (Program), compiled as Sections 11-6A-1 through 11-6A-6, NMSA 1978 (*Appendix A*).

### **Program Oversight**

The statute gives authority to the DWI Grant Council (Council) to approve funding, regulations, and guidelines for the Program. Membership of the Council consists of the President of the New Mexico Municipal League or a designee, the President of the New Mexico Counties or a designee, the Secretary of the Department of Health or the Secretary's designee, the Secretary of the Department of Finance and Administration or the Secretary's designee, Chief of the Traffic Safety Division of the Department of Transportation, and two representatives of local governing bodies, appointed by the Governor.

### **Establishment of Regulations and Guidelines**

Section 11-6A-5 NMSA 1978, requires the Division to establish regulations and guidelines for local DWI programs. The Division has established a rule, 2.110.4 NMAC (*Appendix B*), and these guidelines to assist local communities in applying for funding and administering their local DWI programs. Any rule or guideline changes are not finalized until approved by the Council.

### **DWI Program Administration**

The Division is designated to administer and evaluate the funds by ensuring they are expended per the statute, rule, and guidelines.

### **Grant and Distribution Funding**

Sections 11-6A-3 through 11-6A-6 NMSA 1978 require the Division to administer funds for: DWI competitive grants; distributions as set by formula; and the Alcohol Detoxification Grant. Funding is awarded to local DWI programs in each county for new, innovative, or model programs, services, or activities to prevent or reduce the incidence of DWI, alcoholism, and alcohol abuse. There is one local DWI program in each county. County commissions must sign a resolution authorizing the county to serve as the fiscal agent and authorizing the participation

in the Local DWI Grant Program. A resolution between a county and a municipality is also required annually if the county has designated the municipality to act as its fiscal agent for the local DWI program. The city council of the municipality must also sign a resolution or sign a joint resolution between the county and the city.

### **Local DWI Planning Council - Authorization and Membership**

To be eligible to apply for and receive Program funds, a board of county commissioners or city/village council (or board) must create a local DWI planning council, appoint the voting members, or approve a process for voting members to be selected, and set their terms (Section 43-3-14, NMSA 1978). This local DWI planning council serves in an advisory capacity to the Board. The members of the local DWI planning council shall be selected to represent a broad spectrum of interests and may include county officials, DWI program and service providers, law enforcement officers, alcohol counselors and therapists, school administrators, local political leaders, representatives of Native American communities, and teen representatives. Representatives of the fiscal agent (city/county managers, fiscal managers, etc.) may sit on the local DWI planning council to represent the fiscal agent's interests.

To avoid potential conflicts of interest, any DWI program staff and/or contractors receiving Program funds may not be voting members or officers of the local DWI planning council. DWI program staff may provide administrative support to the local DWI planning council and should participate in all meetings. Entities receiving Program funds, including contractors, should also participate in the local DWI planning council meetings.

The members of the local DWI planning council shall elect a Chair for a term designated by the Board. The local DWI planning council shall adopt and implement a set of bylaws to govern the local DWI planning council, including a way to handle potential conflicts of interest. All local DWI planning council meetings shall be governed by the Open Meetings Act (Sections 10-15-1 through 10-15-4, NMSA 1978). Signed copies of local DWI planning council bylaws, meeting minutes, and sign-in sheets must be submitted to the Division. The bylaws are due to the Division annually and should be re-submitted when updated. Signed meeting minutes and sign-in sheets are due with the quarterly report for the quarter in which they take place or as soon as possible thereafter.

The local DWI planning council must provide input to the application process and must approve the application prior to the Board's approval. The council meeting minutes should reflect this process.

### **Local DWI Coordinator**

The local DWI Coordinator, depending upon the fiscal agent for the local DWI program, may be an employee of the county, city or village, or an independent contractor of the fiscal agent (it is the responsibility of the fiscal agent to make this determination). This individual is responsible for oversight of all local DWI program efforts including, but not limited to: monitoring all grant activities; budgeting, planning and funding requests; development, maintenance and reporting

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through the offender tracking system; evaluation of the grant program progress and impact; submission of all required financial and program reports regarding grant activities; staffing the local DWI planning council; and implementing public awareness and information campaigns, and other such activities. Even if the local DWI Coordinator does not implement all aspects of the local DWI program, they should be aware of and oversee the activities of the local DWI program. There should be one local DWI Coordinator for each local DWI program, who is the main point of contact for the Division.

The local DWI Coordinator plays a key role in administering the local DWI program, in collaboration with the county, city or village management, local DWI planning council, the New Mexico Counties DWI Affiliate, and the Division. See *Appendix C* for a sample DWI Coordinator job description.

It is mandatory for the local DWI Coordinator to attend the yearly Application Workshop, the Implementation Workshop, and any DWI Grant Council meetings in their entirety. If the DWI Coordinator is unable to attend these meetings, a representative must be sent in their place. If no one is available to represent the local DWI program, the local DWI program must receive approval from the Division for an excused absence from mandatory meetings (See *Appendix D*).

### **County DWI Plans**

In order to receive Program funding, each county must have a county DWI plan approved by the New Mexico Health Care Authority pursuant to Sections 43-3-10 through 43-3-15, NMSA 1978. The County DWI Plan is generally submitted as part of the application process. The County DWI Plan should be developed with the advice of the local DWI planning council, and in collaboration with community partners, and should be based on county-wide needs, existing county/community resources, and any local gaps and needs.

### **Division DWI Program Managers**

Each local DWI program will be assigned an LDWI Program Manager who will provide guidance, technical assistance, and support to the local DWI program. LDWI Program Managers will visit each of their assigned local DWI programs at least once per fiscal year, or more as necessary. The site visit may be conducted virtually or in-person. Fiscal agents, local DWI Coordinators, and Board members should contact their assigned LDWI Program Manager if they have questions or concerns. A current list of LDWI Program Managers is available on the DFA website.

## **ADMINISTRATIVE REQUIREMENTS**

### **Introduction**

The Program provides funds through grants and distributions. Program regulations and administrative requirements apply to both types of funding. The Program funds shall be obligated or encumbered for DWI Grant Council approved programs, activities, or services only and may not be accumulated. All grant and distribution funds must be reported to the Division using modified accrual accounting. Funds allocated in one fiscal year can only be used for programs, activities, or services which take place in the fiscal year for which they were allocated.

### **Establish a Separate Local DWI Grant and Distribution Fund**

All fiscal agents which receive Program funds must set up a separate fund in the county's budget or in the budget of the municipality designated by the county. This fund must be included in the entity's budget process and financial reports. Grant and distribution funds, program generated fees, and in-kind matches (both revenue and expenses) should also be clearly identifiable.

**Fiscal agents must be able to track separately all DWI-related grant and distribution funds that flow into and out of their local DWI program. In addition, program generated fee revenues/expenses must also be separately tracked.**

### **Record Keeping Requirements**

All local DWI program records must adhere to the New Mexico State Records Center and Archives Rule for Functional Retention and Disposition Schedule, 1.21.2 NMAC. This includes grant agreements and amendments; applications for funding; screening, tracking, and compliance files; treatment files; all fiscal documentation; local DWI planning council documentation; and any other local DWI program related documentation. The records must be maintained in a secure and protected location.

### **Establish and Implement a Procurement Policy**

All local DWI programs should work closely with their county or city finance section to establish and follow a procurement policy that complies with the New Mexico State Procurement Code, or the county procurement code if it is more stringent than the State Code. Except as otherwise provided in the State Procurement Code, Section 13-1-28 through 13-1-199, NMSA 1978, the Code applies to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property and services.

### **Establish Adequate Internal Fiscal Controls**

To ensure adequate internal fiscal controls, one person should be designated to review and approve all transactions involving DWI funds before these transactions are processed by the local finance officer. This individual should:

1. Approve purchase orders and contracts to be funded by state and local DWI funds;
2. Receive and approve invoices;
3. Review and approve requisitions for payment involving DWI funds;
4. Account for and turn over to the fiscal agent all fees collected; and
5. Approve travel, timesheets, and invoices.

If the individual responsible for program activities is also responsible for maintaining DWI records, it is particularly important to have adequate internal controls. No one individual should have complete control over all segments of financial transactions:

1. The same person should not purchase materials, receive materials, authorize payment, and write checks.
2. The person who prepares payrolls should not handle the related paychecks.
3. Actual lines of responsibility should be clearly established and adhered to.
4. All persons who handle financial transactions should be bonded in accordance with state law.
5. If collecting fees, the same person should not collect, record, and deposit the fees. Programs must follow the county, city or village policy and procedures for the prompt deposit of any funds collected.

### **Establish and maintain approved Screening Program**

Section 66-8-102(L), NMSA 1978, requires offenders to complete the DFA approved screening program. To be eligible to receive LDWI funds, local DWI programs must establish and maintain a DFA approved screening program which includes the screening tool and database. All offenders with a DWI conviction must complete the approved screening assessment. All local DWI programs must enter and track all DWI, and other alcohol related offender's sanctions required by the court in the approved database.

## ***ADMINISTRATIVE PROCEDURES***

### **Funding Allocation Process**

The State fiscal year is July 1-June 30. The Council awards funding in the spring for the following fiscal year.

#### Application Workshop

The Division hosts a mandatory Application Workshop for all local DWI Coordinators. The purpose of the workshop is to review the application forms and to answer any questions local DWI Coordinators have about the application. The Division will also provide the distribution projections for the next fiscal year, which the local DWI Programs will use for the budget in the application. The Division will also provide the estimated amount of DWI competitive grant funding that will be available.

#### Application Submission

The application due date will be listed within the application. Local DWI programs should determine their funding request with their local DWI planning council and their Board. The request should be based on the county DWI plan. Programs and services must benefit the entire county, including any tribal areas. The Board makes final decisions on the application. The final application must be approved by the Board before being submitted to the Division.

Each annual application requires a resolution by the county commission authorizing the county to serve as the fiscal agent and authorizing the participation in the Local DWI Grant Program. A resolution between a county and a municipality is also required annually if the county has designated the municipality to act as its fiscal agent for the local DWI program. The city council of the municipality must also sign a resolution or sign a joint resolution between the county and the city.

#### Review and Allocation Process

Applications are reviewed by the Division and other agencies (usually the NM Department of Transportation, Traffic Safety Division and the Health Care Authority, Behavioral Health Services Division) based on review criteria established in the regulations (NMAC 2.110.4), and as provided in the application. Based on the rating and ranking of each application, and the funding available, the Division makes recommendations to the Council in the spring allocation meeting.

During the review period, the Division ensures that the fiscal agent for each local DWI program applying for funding has completed all audits required under the Audit Act, has a budget approved by the Division pursuant to Chapter 6, Article 6 NMSA 1978, and is current on all financial reporting to the Division under that article. If the Division finds that the fiscal agent is

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deficient in any of the above, the Division will inform the Council and require that the fiscal agent resolve the deficiency within a timeframe specified by the Division. If the deficiencies are not resolved within the timeframe specified, funding may be suspended (according to 2.110.4 NMAC). Fiscal agents who do not have a current audit published on the State Auditor's website, and/or those with a disclaimed audit may not be eligible to apply for DWI competitive grant funding.

After the Council allocates funding for the next fiscal year, the Division asks each local DWI Coordinator to submit an updated budget based on the actual allocation. The updated budget is due to the Division within 10 working days after the DWI Grant Council allocation meeting. The Division will prepare grant agreements and other fiscal documentation, in order for funds to be available to local DWI programs starting July 1.

### Special Application

If approved by the Council at the spring allocation meeting, the Division will issue a special application. Each local DWI program can apply for additional grant funding, if available, for the purpose(s) established by the Council. The Division reviews the applications and makes recommendations to the Council in a fall allocation meeting. The Division will not recommend funding for programs which are not in good standing, and which have not submitted their distribution reversion check by the deadline, cited in the next section.

### **Types of Funding**

#### DWI Competitive Grants

DWI Competitive Grants are made available for programs, services, and activities which support the mission of reducing the incidence of DWI, alcoholism, alcohol abuse and alcohol-related domestic violence. The Council may award DWI grant funding based on Section 11-6A-3(F) NMSA 1978. Sixty-five percent of the DWI competitive grants awarded to local communities shall be used for alcohol-related treatment and detoxification programs. Division staff rate DWI competitive grant applications based on the criteria listed in 2.110.4.14 NMAC and available funding.

All grant funding is made through payments on a reimbursement of actual costs basis, listed on the forms provided by the Division. Local DWI programs must purchase, deliver, and pay for services and activities before reimbursement, and then submit appropriate documentation of those purchases. The fiscal agent is then reimbursed for the paid expenses. Requests for reimbursement can be made on a monthly or quarterly basis, whichever best suits the needs of the fiscal agent.

Unexpended grant funds revert to DFA and the Local DWI Grant Fund at the end of the fiscal year; they do not revert to the State General Fund. Any reverted balance will be awarded in either a subsequent DWI competitive grant funding cycle or through the special application process. All grant funds must be reported to the Division using modified accrual accounting.

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Expenses incurred in one fiscal year will not be reimbursed in another fiscal year. This follows General Accepted Accounting Principles (GAAP).

The LDWI Program Manager will provide the local DWI program with the current forms and instructions.

### Detoxification Grants

Section 11-6A-3 allocates funding for grants for alcohol detoxification (detox) and treatment facilities. Each county determines how it plans to use this funding for alcohol treatment services (See Alcohol Detoxification Grants under the Treatment component section for additional information).

As with the DWI competitive grants above, detox grant funding is made through payments on a reimbursement of actual costs basis.

Unexpended grant funds revert to DFA and the Local DWI Grant Fund at the end of the fiscal year; they do not revert to the State General Fund. Any reverted balance will be awarded in a subsequent competitive grant funding cycle. All grant funds must be reported to the Division using modified accrual accounting. Expenses incurred in one fiscal year will not be reimbursed in another fiscal year. This follows Generally Accepted Accounting Practices (GAAP).

The LDWI Program Manager will provide the local DWI program with the current forms and instructions.

### Distribution

Distributions are set by formula (see Section 11-6A-6 NMSA 1978) and delivered to fiscal agents by September 10, December 10, March 10, and June 10 of each fiscal year. An estimate of these funds may be provided to the fiscal agent prior to actual distribution to assist with budgeting. The actual amount of the distribution may vary, plus or minus, from the estimate provided. Fiscal agents receive the funds as a “flow through” and in turn must submit appropriate supporting documentation for all paid program expenses on a quarterly basis as part of the quarterly report. All distribution funds must be reported to the Division using modified accrual accounting. Fiscal agents must monitor actual distribution closely. **If distribution expenditures are above the actual distribution, the fiscal agent is responsible for covering any over-expenditure.**

At the end of the fiscal year, if documented distribution expenditures from July 1 through June 30 are less than the actual distributions, the unexpended balance of distribution funds revert to DFA and the Local DWI Grant Fund. Funds do not revert to the State General Fund. Local fiscal agents must return any remaining distribution balances by September 30 of the next fiscal year in order to be eligible for future funding. All future fund transfers may be stopped if final distribution reversions are not received by the deadline.

## Establishing Budgets

The local DWI Coordinator, with the advice of the local DWI planning council and the approval of the fiscal agent, will create an annual budget based on the Council allocations (see page 13 for eligible expenditures by line item, and page 18 for ineligible/restricted expenditures). The budget should reflect what was proposed in the application for funding. A separate budget must be created for each type of funding: grant, detox grant, and distribution. The local DWI Coordinator, with support from the fiscal agent, is required to closely monitor the budgets throughout the fiscal year.

Following are some general guidelines for building a grant and/or distribution budget:

- 1) Identify priority areas based on local gaps and needs, and determine the amount to be allocated to each component (see page 24 for component descriptions);
- 2) Decide, by component, how much should be allocated to each line item (see page 13 for a list of budget line items); and
- 3) Look at the budget pieces as a whole and make adjustments as necessary.

The following must also be considered as the budget is established:

- 1) All personnel expenditures should be budgeted in the relevant component(s) based on job duties.
- 2) Treatment must be budgeted in the grant before it is budgeted in the distribution. Section 11-6A-3(G) NMSA 1978 requires that the Council allocate 65% of grant funding for treatment and detoxification programs.
- 3) Teen court is limited to \$40,000 in the Community Wellness and Outreach component.
- 4) In-kind must be budgeted at a minimum of 10% of the grant allocation and 10% of the distribution allocation and must be from the county or municipality (per NMAC 2.110.4.10(D)). If this requirement is not met, the Division will be unable to approve the budget.
- 5) Capital purchases are limited to 10% of the total grant or distribution budget. Any capital purchases must be approved by the Division BEFORE they are purchased.

## Grant Agreement Process

After approving final budgets, each LDWI Program Manager prepares the formal grant agreement. This agreement is sent to the local DWI Coordinator to obtain signatures from the County Commission Chair or Mayor or their designee. Once signed at the local level, the local DWI Coordinator will return the signed grant agreement to the Division for final signatures. An acceptable original signature may be either wet or digital. The grant is fully executed on the date of the final signature by DFA, and effective on July 1<sup>st</sup> of the fiscal year. A fully executed grant agreement is returned to the local DWI Coordinator.

Distribution, Grant and Detox Budget Adjustments and Amendments

*Adjustment Request*

If amounts need to shift in either line items or components within the approved budget, the local DWI Coordinator must submit an adjustment request to the LDWI Program Manager. This request must be on the DFA-approved form, include a justification for the proposed changes, and detail the requested changes to the line items and/or components. This request should be submitted via email. Once a complete adjustment request is received and approved by the Division Director or designee, the LDWI Program Manager will revise the budget forms.

*Amendment Request*

If the budget needs to be increased from what was originally approved, an amendment request needs to be submitted. This request must be on the DFA-approved form detailing the proposed changes to line items and/or components. The justification for the changes must be attached and submitted on official letterhead and be signed by a county official. This request should be submitted via email. Once a complete amendment request is approved, the LDWI Program Manager will prepare a formal grant amendment document for grant and detox funds or revise budget forms for distribution.

Grant and Detox amendment requests will not be accepted by the Division after April 30<sup>th</sup> for the current fiscal year.

**BUDGET LINE-ITEM OVERVIEW**

**PERSONNEL SERVICES (Gross amount)**

FULL TIME  
PART TIME  
TEMPORARY  
OVERTIME  
TERMINATION PAY  
OTHER WAGES

**EMPLOYEE BENEFITS (Employer paid)**

GROUP INSURANCE  
RETIREMENT  
F.I.C.A  
WORKERS' COMPENSATION PREMIUM  
UNEMPLOYMENT INSURANCE  
EMPLOYEES' LIABILITY INSURANCE

**TRAVEL (IN-STATE)**

MILEAGE REIMBURSEMENT  
PER DIEM  
TRANSPORTATION EXPENSE

**TRAVEL (OUT-OF-STATE) *Must be pre-approved***

MILEAGE REIMBURSEMENT  
PER DIEM  
TRANSPORTATION EXPENSE

**SUPPLIES (EXPENDABLE)**

EDUCATIONAL SUPPLIES  
TRAINING SUPPLIES  
LABORATORY SUPPLIES  
OFFICE SUPPLIES  
PREVENTION SUPPLIES (limited to \$5,000)  
PROMOTIONAL ITEMS (limited to 1%)

**OPERATING COSTS**

ADVERTISING  
EMPLOYEE TRAINING  
MAINTENANCE  
POSTAGE & MAIL SERVICE  
PRINTING/PUBLISHING  
RENTAL OF EQUIPMENT  
RENTAL OF LAND/BUILDING  
SERVICE AGREEMENTS  
SOFTWARE  
SUBSCRIPTIONS & DUES  
UTILITIES

**CONTRACTUAL SERVICES**

PROFESSIONAL SERVICES  
MOU w/LAW ENFORCEMENT

**MINOR EQUIPMENT (Unit Value)**

NON-CAPITAL  
OFFICE ENVIRONMENT UPGRADES (limited to \$5,000)

**CAPITAL Purchases >\$5,000 (Unit Value)**

*\*limited to 10% of grant or distribution\**  
EQUIPMENT, MACHINERY, FURNITURE, AND  
FIXTURES >\$5,000  
PROPERTY ACQUISITION (only allowed through  
Detox grant)

**The definitions for each budget line item are listed on the pages below.**

***ELIGIBLE EXPENSES BY LINE ITEM***

\* ALL EXPENSES ARE SUBJECT TO **PRIOR** DIVISION APPROVAL \*

**Personnel Services Gross Salary & Wages** are compensation to employees of the fiscal agent whose work relates directly to the local DWI program.

**Full-time Salary/Wages** are paid to county/city employees hired to work a standard workday or workweek.

**Part-time Salary/Wages** are paid to county/city employees that work less than a standard workday or week.

**Temporary Salary/Wages** are paid to county/city employees that are hired for less than one year.

**Overtime** wages are paid for hours worked in excess of the standard workweek or pay period as defined by the Fair Labor Standards Act (FLSA).

**Termination pay** is paid to employees who are being terminated and may include any outstanding personal leave time accrued.

**Other Wages** may include, but are not limited to, sick leave, vacation & holiday pay, and other personal days accrued or granted by the municipality or county.

**Employee Benefits** (employer portion) are non-wage compensation provided to employees in addition to their salary/wages.

**Group Insurance** is the employer's portion of insurance premiums, health care, dental, vision expenses, etc.

**Retirement Contributions** are the employer's portion of retirement plan contributions.

**F.I.C.A.** is the employer's portion of contributions for Social Security & Medicare.

**Workers' Compensation Premiums** are the employer's portion of quarterly assessments and/or the annual premium for workers' compensation policies.

**Unemployment Insurance** is the employer's portion of premiums for unemployment compensation.

**Employees' Liability Insurance** is the employer's portion of employee liability insurance.

**Travel (In-State)** includes costs associated with all work-related travel for local DWI program employees. Per the Per Diem and Mileage Act, Section 10-8, NMSA 1978,

reimbursement for travel is limited to salaried and non-salaried public officers and employees of all state agencies and local public bodies. Travel should be essential to the mission of the program, effective in achieving its objectives and responsible in cost management.

**Mileage Reimbursement** is reimbursement for costs incurred for private car usage (in accordance with current state policy rates).

**Per Diem** includes reimbursement for expenses incurred for employee meals and lodging.

**Transportation Expense** includes expenses for fuel and oil, car rental, public transportation fares, including ride shares, airfare, and parking fees.

**Travel (Out-of-State)** includes costs associated with work-related travel for local DWI program employees. Per the Per Diem and Mileage Act, Section 10-8, NMSA 1978, reimbursement for travel is limited to salaried and non-salaried public officers and employees of all state agencies and local public bodies. Travel should be essential to the mission of the program, effective in achieving its objectives and responsible in cost management. **All out of state travel must be pre-approved by the division.**

**Mileage Reimbursement** is reimbursement for costs incurred for private car usage (in accordance with current state policy rates).

**Per Diem** includes reimbursement for expenses incurred for employee meals and lodging.

**Transportation Expense** includes expenses for fuel, car rental, public transportation fares, including ride shares, airfare, and parking fees.

**Supplies** are expendable items necessary for the day-to-day operations of the program and are to be used within the grant period. Supplies should be purchased in reasonable quantities appropriate for the delivery of approved programs, activities, and services.

**Educational Supplies** are curriculum books for prevention, treatment workbooks, and prevention brochures/pamphlets/flyers.

**Training Supplies** are used to educate and develop program employees, including digital resources, printed materials, and other relevant training tools.

**Laboratory Supplies** include urine and saliva drug tests, and portable breath analyzer.

**Office Supplies** include standard office supplies (e.g., paper, pre-printed forms, ink, toner, file folders, binders, janitorial supplies, writing utensils, storage boxes, USB drives, etc.).

**Prevention Supplies** are used for prevention programs, activities, and services

including, but not limited to, markers, poster board, paint, games, decorations, and crafts and are limited to \$5,000.

**Promotional Items** are giveaway items that have a DWI message and are limited to 1% or \$1,000.00, whichever is greater, of the combined grant & distribution budgets.

**Operating Costs** are associated with the general operation of the local DWI program.

**Advertising** expenses are for billboards, banners, newspapers, radio, and television, etc.

**Employee Training** are costs related to the training and education of DWI program employees including fees paid to professional organizations for training, and attendance at conferences and workshops. ***Not to be used for tuition reimbursements for classes taken for credit at higher educational institutions.***

**Maintenance** includes costs associated with the repair and maintenance of office equipment (i.e. copy machine, phone, scanner, etc.), permanent fixtures (i.e. shelving, light fixtures, metal detectors, etc.), buildings (related to health and safety) and vehicles including oil changes and car washes. The expenditure may not increase the value of the item being repaired.

**Postage and Mail Service** are costs for postage, courier services, , and rental charges for post office boxes/drawers.

**Printing/Publishing (including advertising)** includes printing and binding costs for program related publications (surveys, annual reports, etc.); photocopying; notification for request for proposals; scheduled hearings and meetings; and vacant position postings.

**Rental of Equipment** includes all office equipment . Prevention activity/event equipment rentals must be pre-approved by the Division.

**Rental of Building** includes office, conference room and warehouse space.. Prevention activity/event building rentals must be pre-approved by the Division.

**Service Agreements** include costs related to service charges (i.e. internet, phone, pest control, lawn maintenance, etc.) Service agreements related to prevention activities/events must be pre-approved by the Division.

**Software** are costs related to software necessary to operate the local DWI program.

**Subscription and Dues** include subscription services, magazines and periodicals, and dues for associations, renewal of professional licenses, or certificates related to the DWI Program.

**Utilities** include monthly charges for water, gas, electricity, etc.

**Contractual Services** are costs associated with agreements with partnering agencies or certified professionals (i.e. treatment providers, Certified Prevention Specialists, evaluators, Law Enforcement, etc.) for services that directly support the local DWI program. Additional eligible contractual services include program audits, attorney fees providing legal advice, or other professional services. LDWI funds cannot be used for payments which exceed the amount identified in the compensation clause. If funds are available, contract amendments may be submitted to the bureau for administrative approval to increase the compensation clause.

**Minor Equipment** are purchases including office furniture (i.e. desks, chairs, etc.), permanent building fixtures (i.e. shelving, light fixtures, metal detectors, etc.) and office equipment (i.e. computers, copy machine, phone, scanner, etc.) with a unit value of \$5,000 or less and is not required to be capitalized. If counties have more stringent policies, they must be adhered to.

**Office Environment Upgrades** are improvements to a workspace design to enhance employee and client well-being, comfort, and productivity and are limited to \$5,000.

**Capital Purchases** are for office equipment, office furniture, and permanent fixtures having a unit value of \$5,000 or greater and are required to be capitalized. Capital purchases are investments in physical assets with extended utility. ***Capital purchases cannot exceed 10% of individual grant or distribution amounts. All capital expenditures must have prior approval from the Bureau. This limitation does not pertain to the Alcohol Detoxification Grant.***

**Property Acquisition** is an allowable expense **only** in the Alcohol Detoxification Grant for treatment facilities. (Must have prior approval from the Division.)

## ***INELIGIBLE/RESTRICTED EXPENSES***

LDWI funds cannot be used to fund the following expenses subject to Section 18 Council Authority of the regulations (NMAC 2.110.4):

Administrative Costs – Indirect costs to administer the grant or distribution program are not allowable with grant or distribution funds.

Amenities – LDWI funds may not be used for personal care items (i.e. sunscreen, lotion, bug spray, etc.), kitchen appliances (i.e. ice machines, coffee pots, microwaves, refrigerators, toasters, etc.), and paper/plastic goods (i.e. cups, plates, utensils, etc.).

Capital purchases – Capital purchases are limited to 10% of individual grant or distribution amounts. All capital expenditures must have prior approval from the Bureau. This limitation does not pertain to the Alcohol Detoxification Grant.

Cash Transfers – LDWI funds will not be transferred to any other budgets/funds in the county/municipality.

Claims/Judgments/Settlements – LDWI funds may not be used for costs incurred in the settlement of claims or judgments against the local DWI program, including attorney's fees.

Crisis intervention "Hot Lines" – Expenses for "hot lines" are ineligible.

Double-billing – It is prohibited to charge the grant or distribution fund and another source of funding for the same service, activity, or program.

Enforcement Equipment and Training – Law Enforcement equipment is not allowable unless approved by the Division. Approval will not be given for the purchase of guns, tasers, batons, vehicles, bulletproof vests, uniforms, radio equipment, or radar detectors. Training and travel for law enforcement officers is ineligible.

Food and Drinks – LDWI Funds may not be used to purchase food or drinks.

In-patient and Residential Treatment – In-patient and residential treatment is not an allowable expense with DWI Grant or Distribution funding. Social Detoxification treatment is an allowable expense with Detoxification Grant funding but is limited to 10 days. Jail-based treatment is not considered in-patient or residential treatment.

Judicial Support – Funding to support the judiciary (i.e. DWI clerks hired through the court, or support for treatment courts) is limited to 10% of combined grant and distribution budgets.

Land or Building/Facility Acquisition – Land or building/facility acquisition through DWI grant or distribution funds is prohibited. Requests for land or building/facility acquisition may be submitted to the Division for approval using Detoxification Grant funding.

Office Environment Upgrades - Improvements to a workspace design to enhance employee and client well-being, comfort, and productivity and are limited to \$5,000.

Prevention Supplies – Supplies used for prevention programs, activities, and services including, but not limited to, markers, poster board, paint, games, decorations, and crafts are limited to \$5,000.

Prizes and Incentives –LDWI funds shall not be used for cash prizes, other prizes, gift cards, and other incentives. Funding for these items is allowable with fees as long as the fees collected are used first to fund the component for which they were collected.

Promotional items- Giveaway items that have a DWI message are limited to 1% or \$1,000.00, whichever is greater, of the combined grant & distribution budgets.

Ride Services – Funds shall not be used to support regional transportation costs (regular bus services and other public transportation) for potential drunk drivers. Program funds may be used to support a program aimed specifically at potential drunk drivers. An evaluation of the program must be done in order to justify continued support. Ride services must be approved by the Division annually.

Stipends to individuals – Stipends to individuals to reimburse expenses related to volunteer work are ineligible.

Teen Court – Funding for Teen Courts is limited to \$40,000.

Uniforms and Clothing – Funds shall not be used to purchase uniforms or other clothing for program/fiscal agent staff, contractors, or program participants.

Unrelated Activities – Funding for activities that do not relate specifically to the prevention or reduction of DWI, alcoholism or alcohol abuse are ineligible.

Vehicles – The purchase or lease of vehicles is prohibited with DWI Grant or Distribution funding. Requests for the purchase of vehicles may be submitted to the Division for approval using Detoxification Grant funding.

**Local DWI programs should work closely with other agencies to maximize other available funding resources.**

### ***FEES COLLECTED***

Fees charged and collected from clients or offenders are intended to fund the component or service under which they were collected. **Fees must not revert or be transferred to any other fund.** Spent fees may be reported as County/Municipality in-kind match expenditures.

#### **Screening Fees**

All eligible expenditures required to administer the mandatory alcohol screening tool (currently the Impaired Driving Assessment-IDA) should be funded by the collected screening fees. Local DWI programs may determine the amount of fees to collect but are strongly encouraged to work with the courts to make that determination. The local DWI program may establish a sliding fee scale based on clients' income and a payment schedule for fee collection.

After all screening expenses are paid, any remaining screening fees may be used to fund other DWI-related program activities/services.

All collected and spent screening fees must be reported to the Division in the quarterly report.

#### **Treatment Fees**

Local DWI programs may collect treatment fees. A sliding fee scale may be established at the local level based on clients' income level. Eligibility for other public assistance programs (Medical, Food, Water, Energy, etc.) may be used in determination of sliding-fee scale.

Collected treatment fees should be used for expenses incurred by the operation of the treatment component. Any treatment fee balance remaining after component expenses have been covered may be used to fund DWI-related activities in other components.

#### **Compliance Fees**

Collected compliance monitoring fees shall only be used to operate the misdemeanor compliance program, per Section 31-20-5.1(A-B) NMSA 1978.

The Division does not provide oversight for other fees collected by the local DWI program.

### **Donations**

The Division provides no oversight of donated funds unless they are used as in-kind match. When donations are used as in-kind match, the Division will require proper back-up documentation.

Use of funds donated to the local DWI program are not restricted by regulations or guidelines. Donated funds cannot be co-mingled with any Program funds (grant, distribution funds, or program generated fees) unless they are in-kind match. Donors must be aware that the State oversight of donations is not the same as with public funds.

## ***CONTRACT ADMINISTRATION***

A professional services contract (PSC) is an agreement between state or local governments and private or non-profit organizations. The procurement of all contracts must be in compliance with the State Procurement Code, 13-1-28 – 13-1-199, NMSA 1978, or any county procurement code if they are more stringent than the State code.

1. At a minimum, the Division is looking for the following in contracts:
  - Scope of work – including deliverables and performance measures
  - Compensation – total costs tied to scope of work with payment schedule
  - Terms of contract – start and end date
  - Termination clause – for example contingent on available funding, satisfactory completion of scope of work completion, etc.

Per 1.4.1.49 of the State Procurement Code, multiple contracts for the same contractor for a similar scope of work is a violation.

2. All contracts must be submitted to the Division for administrative review and approval before they are executed. Administrative review consists of ensuring compliance with LDWI rule, statute, and guidelines. Administrative review does not constitute a legal review nor ensure compliance with the State Procurement Code or any local procurement policies. Failure to comply with this requirement may result in denial of expenditures associated with the contract(s).

Legal review of PSCs should occur at the local level.

3. Contracts must be annual, concurrent with the grant period and fiscal year, and

based on available funding. They must be executed before services are delivered and expenditures are incurred.

Refer to the State Procurement Code, 13-1-28 – 13-1-199, NMSA 1978, regarding multi-year contracts, if applicable.

4. A standard billing format should be developed by the fiscal agent and the local DWI Coordinator for use by all contractors. LDWI funds cannot be used for expenditures over amount listed in the contract compensation clause.
5. All contracts must be monitored by the fiscal agent and local DWI Coordinator for timely, appropriate completion of work, compliance with the procurement code, reporting and billing. It is recommended that a yearly site visit be performed by the local DWI Coordinator for every contractor.

A sample contract can be found on the New Mexico General Services Division website.

### ***MEMORANDUM OF UNDERSTANDING ADMINISTRATION***

A Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) is an agreement between public agencies to transfer money and/or duties from one agency to the other. MOUs or MOAs must be in place with any public agency, such as law enforcement, that will receive Program funds to provide services. At a minimum, MOUs/MOAs must include a scope of work, compensation, terms, and a termination clause. All MOUs and MOAs must be submitted to the Division for administrative review and approval before they are executed.

### ***QUARTERLY REPORTS***

In order for the Division to adequately evaluate the progress of local DWI programs and ensure compliance with these guidelines, each local DWI program is required to submit quarterly reports to the Division. The reports must contain:

- A detailed breakdown of expenditures to date on the budget forms provided by the Division, along with backup documentation supporting each expenditure
- Any screening fee balance must be reported at the beginning of the fiscal year on the first quarter report. Each quarterly report must include a summary of any collected and expended screening fees, along with backup documentation;

- Local DWI planning council meeting agendas, sign in sheets and signed minutes;
- A narrative that provides the successes and challenges the local DWI program encountered during the reporting period;
- A narrative that provides an update on evaluation of the local DWI program/components
- Managerial Data Set (MDS) reporting
  - Enforcement activity reports in the tracking database;
  - Prevention activity reports in the tracking database
- Screening and tracking database information;
- Verification of active users in current DFA approved screening program database;
- Any other pertinent information and/or forms to help the Division evaluate the local DWI program.
- The Quarterly Report Checklist signed by the local DWI Coordinator and the fiscal agent;

One copy of the quarterly report shall be submitted to the Division no later than **October 31, January 31, April 30, and July 31** of each fiscal year for review and comment. Grant reimbursement requests must follow dates indicated in respective grant agreements.

An annual report is also required to summarize the progress over the previous fiscal year, and to report data from the screening/tracking database.

The local DWI Coordinator must ensure that reports submitted to the Division will not contain any “individually identifiable health information” as defined by the Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, the Regulations promulgated by the Department of Health & Human Services pursuant to HIPAA, the Health Insurance Portability and Accountability Act of 1996 (the “HIPAA Regulations”).

**Failure to meet reporting deadlines can lead to restrictions or termination of funding.** If for any reason a program cannot meet a deadline, the local DWI Coordinator must inform the Division in writing of the reason for the delay and request an extension.

### ***LOCAL DWI PROGRAM COMPONENTS***

The Local DWI Program encourages a multi-pronged approach to reduce DWI, alcoholism, and alcohol abuse by implementing various prevention and intervention strategies, which is more effective than any single approach. Local DWI programs can

fund any of the four components: Community Wellness and Outreach, Treatment, Alternative Sentencing, and Program Administration.

Deciding on which components to fund is based on the county DWI plan. The demographic profile of the DWI offender population should be considered. Activities and services should be targeted to the highest risk populations and address local gaps and needs. The services and activities provided by the local DWI program should be complementary to other services being provided in the community, and not duplicative. Local DWI programs are encouraged to work closely with other programs and organizations in the community to maximize services and resources. The local DWI program must provide services throughout the county to reach as many people as possible.

Below is a description of each component and how it should be implemented.

### **Community Wellness and Outreach**

Programs and services in this component play a pivotal role in improving the community's health and safety by promoting knowledge, healthy practices, resilience, and well-being.

### **PREVENTION**

Prevention activities funded by the Program will be shown to increase life skills and/or decrease risk factors for DWI and/or alcohol abuse, including alcohol-related domestic violence. Program funds may be used to support the assessment, capacity, planning, implementation, and evaluation of such activities. Local DWI programs are encouraged to assess their counties to identify opportunities to implement evidence-based strategies to address the unique factors contributing to misuse of alcohol in their communities.

When choosing prevention activities, the following must be considered:

- The need for the activity
- The risk and/or protective factors targeted by the activity
- The reasons the county thinks the activities are likely to be effective
- Collaboration with other prevention organizations or coalitions in the community
- Capacity/available resources to implement the activity
- The community's readiness to implement the activity
- The activity's cultural relevance
- How the success of the activities will be evaluated

Prevention activities funded by the Program should be either evidence-based or promising and likely to address the unique needs of the service area so that alcohol misuse is reduced or less likely to occur. A number of websites maintain directories of evidence-based prevention activities and strategies. Links to resources can also be found on the LDWI website.

*Refer to Ineligible/Restricted Expenses for limitations on prevention expenditures. Additionally, service agreements and equipment/building rentals related to prevention activities/events must be pre-approved by the Division.*

### **Implementing Prevention Activities**

As activities are implemented, local DWI programs should collect data required for reporting and evaluation purposes. Any contracts for the implementation of prevention activities must include the requirement that all necessary data be collected. Privacy of individual participants must be ensured when collecting data.

All planned prevention activities using LDWI funds shall be reported as goals to the Division by the established deadline and format determined by the division. All completed activities shall be reported to the Division quarterly in the format determined by the division.

### **Evaluating Prevention Activities**

Evaluation must be completed in the current format approved by the Division. Areas to evaluate should include:

- Whether intended results have been achieved
- Impacts on environmental and/or behavioral factors the prevention strategies seek to affect
- Performance measures associated with each targeted area

The results of the evaluation should be used to make adjustments in implementation of the activity or strategy, when appropriate. The evaluation should also be part of the information used in future prevention assessment and planning efforts.

### **Certified Prevention Specialists**

All local DWI programs funding prevention must have a Certified Prevention Specialist (CPS) in place, certify that the prevention program is being directed by a person working towards his or her Prevention Specialist certification, or partner with an outside CPS to provide prevention oversight and assistance. Cost related to certification are an allowable expense for program staff. Certification must be obtained within three (3) years, or an exemption must be approved by the LDWI Division Director annually. The credentialing board in New Mexico that can provide certification is the New Mexico Credential Board for Behavioral Health Professionals (NMCBBHP). The board's website is: <http://nmcbbhp.org/>.

### **TEEN COURT**

Teen Court is a nationally recognized early intervention and restorative justice program for juveniles (ages 12-18), giving the offender a second chance while holding them accountable for their actions. The Teen Court program serves as a community-based intervention/diversion program designed to provide an alternative response for the juvenile justice system. The goal of the Teen Court Program is to interrupt developing

patterns of criminal behavior by promoting feelings of self-esteem, motivation for self-improvement, and a healthy attitude toward authority.

Funding for Teen Court with LDWI funds is limited to \$40,000. Teen Courts must collect, and report data on the current Division template.

Teen Court programs are strongly encouraged to join the New Mexico Teen Court Association.

### **LAW ENFORCEMENT**

The Program funds overtime only (no benefits) for law enforcement officers to support sobriety checkpoints and directed patrols, warrant roundups, and operations targeting underage drinking. If law enforcement efforts are funded by the Program, law enforcement should participate in the local DWI planning council to report on operations and local trends. All law enforcement overtime and/or equipment expenditures using LDWI funds must be outlined in a contract/MOU.

The Division will approve funding for full-time DWI law enforcement officers on a case-by-case basis. Any county requesting a full-time DWI officer to be funded by the Program must provide sufficient justification to the Division to show that a full-time officer is warranted. This request will be reviewed annually in the application.

Some law enforcement equipment will be funded but must be approved by the Division prior to purchase. Local DWI programs are encouraged to first seek funding for law enforcement activities and equipment from other sources.

As activities are implemented, local DWI programs should collect data required for reporting and evaluation purposes. Any contracts for the implementation of law enforcement activities must include the requirement that all necessary data be collected. Evaluation should be part of the information used in future law enforcement assessment and planning efforts.

All planned law enforcement activities using LDWI funds shall be reported as goals to the Division by the established deadline and format determined by the division. All completed activities shall be reported to the Division quarterly in the format determined by the division.

### **Treatment**

Services in this component consist of a broad range of services, including, but not limited to, identification, intervention, assessment, diagnosis, counseling, case management and follow-up for persons with substance abuse problems.

### Requirements

Treatment providers can be contracted or in-house program staff. Treatment providers must be licensed to practice in the State of New Mexico and must implement evidence-based treatment practices. A copy of the licensure for each provider shall be submitted to the Division. The Coordinator is responsible for ensuring services offered are within the purview of the provider's license. Refer to the New Mexico Regulation and Licensing Department for the most recent licensure rules. If medical intervention or medication is needed, individuals must be referred to a medical professional.

The Children, Youth and Families Department (CYFD) has the statutory authority to oversee the court ordered Domestic Violence Offender Treatment or Intervention (DVOTI). The CYFD rule (NMAC 8.8.7.1) applies to the use of any LDWI Program funds used to supplement county DVOTI programs.

As services are provided, local DWI programs should collect data required for reporting and evaluation purposes. Any contracts for the implementation of treatment services must include the requirement that all necessary data be collected. Evaluation should be part of the information used in future treatment assessment and planning efforts.

### Types of Treatment

#### **Outpatient and Jail-based Treatment**

Program funding supports outpatient treatment and jail-based services for individuals with a DWI or other alcohol-related offense, including alcohol-related domestic violence. Other sources of funding, such as fees, Medicaid, or medical insurance, should be exhausted before LDWI Program funds are used.

Outpatient and Jail-based treatment programs shall include a treatment assessment administered at admission. An individual treatment plan must be developed with each client.

#### **Preventative Treatment**

Upon approval from the Division, funding may be used to support preventative treatment services and education for any community member in effort to reduce the incidence of DWI, alcoholism, alcohol abuse and alcohol-related domestic violence. All preventative treatment participants and activities must be tracked using the current Division reporting tool.

LDWI funding may be used to support behavioral health and/or substance abuse counseling as part of Medication Assisted Treatment (MAT), however, medication expenditures are ineligible.

### Protocol

Every local DWI program must submit a treatment protocol to the Division at the beginning of each fiscal year. Updates should be made as necessary and submitted to the Division with the revision date. Protocols should be developed in coordination with the local DWI planning council and the courts. Protocols should contain, at a minimum:

- how the treatment program/provider operates
- the treatment process
- the evidence-based treatment modalities used by the provider
- the individual(s) providing treatment
- how client progress/completion is reported to the Program

### **Alternative Sentencing**

Programs and services in this component provide the courts with sentencing alternatives to traditional incarceration.

### **SCREENING**

In order to be eligible for Program funding, it is mandatory for each county to have a screening program in place for use by all courts (district, magistrate, metro, and municipal) pursuant to Section 66-8-102(L) NMSA 1978, which states: “Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred, or taken under advisement.”

The Division defines “screening program” as the screening tool and tracking database approved by DFA. The current screening tool is the Impaired Driving Assessment (IDA) which must be entered into the tracking database. The screening entity must collaborate with the tracking entity if these duties/functions are separated.

Per Section 43-3-11(D) NMSA 1978, “Whenever feasible, the screening program shall not be provided by an alcoholism treatment program serving the judicial districts involved in order to avoid conflict of interest in recommending that offenders enter treatment.” If any local DWI program wants their screening program to be implemented by a treatment provider, a written request must be approved by the Division.

All screening programs must adhere to the strict regulations regarding confidentiality as outlined in 42 CFR part 2 and in HIPAA.

### Purpose

The screening instrument determines an offender's need for supervision and other potential service needs. If the results of the screening instrument indicates that an offender has a possible need for treatment, local DWI programs will refer the offender to available treatment providers who will determine the length and type of treatment in compliance with statutory requirements.

The screening program also tracks the sentencing requirements and the completion of those requirements.

### Protocol

Every local DWI program must submit a screening protocol to the Division at the beginning of each fiscal year. Updates should be made as necessary and submitted to the Division with the revision date. Protocols should be developed in coordination with the local DWI planning council and the courts. Protocols should contain, at a minimum, the following information:

- Referral – How clients are referred to the screening program and which courts refer clients to the screening program.
- Intake procedures – Including signing of client confidentiality forms/waivers.
- Screening process – Any timelines/deadlines for processing screening results, and procedures on how information (such as judgement & sentence data) is passed from courts to the local DWI program. Also, if there is any policy/procedure for tracking those that are referred for screening but do not show.
- Distribution of DFA-approved screening results – How and when are results provided to the courts? Who else has access to the results, and how are they transmitted, if applicable?
- Next Steps – What happens after the client is screened? How are the results from the IDA used to create a case management plan? Include procedures for monitoring clients who score low, low-medium, High-Medium, or High.
- Roles and responsibilities of local DWI program staff
- Screening fees – The screening program should be self-funded. A fee for screening services shall be collected from each offender and then used to offset costs of the screening program. How much is charged per screening? Is there a sliding fee scale? Are payment plans allowed?
- Records storage/retention – How are records stored?

### **COMPLIANCE MONITORING/TRACKING**

To be eligible for LDWI Grant funds, a county must have a DFA-approved screening and tracking program in place, and the court ordered sanctions of all DWI offenders, regardless of the court of conviction, must be tracked in the DFA-approved screening and tracking program. The Division strongly encourages compliance monitoring of convicted DWI offenders, and other alcohol-related misdemeanor offenders, including alcohol-related domestic violence offenders, to ensure compliance with court-ordered

sanctions. The Division has oversight of compliance monitoring if LDWI funds are used to support the component.

If the compliance monitor and tracker are not the same person, the compliance monitor must share alcohol and DWI-related offender data with the tracker to remain compliant with the statutory requirements.

It is recommended that results from the initial screening, completed at intake, are integrated into the compliance monitoring plan to ensure effective supervision.

Program funding may be used to support electronic monitoring devices, alcohol monitoring devices, community custody, DWI/drug courts, and community service.

### Fees

Per Statute, 31.20.5.1 B. NMSA 1978, if ordered by a judge, a fee of up to \$50 per month can be collected by the county. Any additional imposed fees, for example screening, must be stipulated in the judgement and sentence. Collected compliance monitoring fees shall only be used to operate the misdemeanor compliance program.

### Protocol

Every local DWI program must submit a compliance monitoring/tracking protocol to the Division at the beginning of each fiscal year, whether or not the program is responsible for compliance monitoring of DWI and other alcohol-related misdemeanor offenders. Updates should be made as necessary and submitted to the Division with the revision date. Protocols should be developed in coordination with the local DWI planning council and the courts. Protocols should contain the following:

- How clients get from the courts to the compliance monitor
- Intake process
- Process for ensuring completion of sanctions
- Who tracks and closes files in DFA-approved screening/tracking program, if not the compliance monitor
  - How information is shared if the compliance monitor and tracker are not the same person
- Fee amount and collection process (If fees are not collected by the program or Coordinator, it's enough to say fees are collected/handled by "X" entity.)

Misdemeanor compliance programs are encouraged to obtain accreditation with the Professional Standards Council supported by New Mexico Counties. The Administrative Office of the Courts oversees the Misdemeanor Compliance Guidelines.

As services are provided, local DWI programs should collect data required for reporting and evaluation purposes. Any contracts for the implementation of compliance monitoring and tracking services must include the requirement that all necessary data

be collected. Evaluation should be part of the information used in future compliance monitoring and tracking assessment and planning efforts.

#### Court Officer Basic Training

Any personnel or contractor working as a compliance monitor must complete the Court Officer Basic Training (COBT) provided by the Division, the DWI Affiliate, and Administrative Office of the Courts (AOC). The training must be completed within the first year of employment as a compliance monitor, or at the first available training opportunity.

#### **Program Administration**

Expenditures in this component are related to managing the day-to-day operations of a program.

This component encompasses all costs related to the DWI Coordinator and program related administrative staff that are not already accounted for in another component.

The DWI Coordinator, who is a county/municipality staff person or contractor, is responsible for oversight of all local DWI program efforts including but not limited to:

- monitoring all activities;
- budgeting, planning, and funding requests;
- development, maintenance, and reporting on all requirements;
- evaluation of the program's progress and impact;
- submission of all required financial and program reports;
- staffing the local DWI planning council; and
- attending DWI Grant Council meetings.

Even if the local DWI Coordinator does not implement all aspects of the Program, they should be aware of and oversee the activities of the local DWI program.

The DWI Coordinator is strongly encouraged to be an active member of the coordinator's affiliate through NM Counties.

## ***ALCOHOL DETOXIFICATION GRANT***

The Alcohol Detoxification Grant (detox grant) funds are intended for alcohol detox and treatment, as defined by statute.

Up to 10 days of social detox services will be reimbursed by detox grant funds. Social detox is defined here as the monitored, supervised, and managed process of withdrawing from alcohol without the use of detox medication. If medical intervention or medication is needed, individuals must be referred to a medical professional.

LDWI funding may be used to support behavioral health and/or substance abuse counseling as part of Medication Assisted Treatment (MAT), however, medication expenditures are ineligible.

Follow-up treatment services must be out-patient. Long-term residential in-patient treatment cannot be paid for with detox grant funds. Detox clients do not have to be charged with or convicted of a DWI to be eligible for services funded with detox grant funds. Individuals can be self-committed, or referred by a doctor, law enforcement agency, social worker, judge, or any other source. Although an individual may be using other drugs and/or controlled substances, alcohol abuse is the determining factor in admitting individuals into detox grant funded programs. Once accepted in the program and thoroughly assessed, other addictive behaviors may be addressed in the treatment plan if there is a dual diagnosis of alcohol and other drugs used.

Programs funded through the detox grant must have a mechanism for tracking the compliance and progress of those individuals who have been admitted to the detox/treatment program.

Detox grant funds may be used to fund facilities with prior approval from the Division. The term "Facilities" includes new and existing physical structures (their construction, renovation, expansion and maintenance) as well as equipment, services and operations. A facility may also be construed to mean more than one location where related support services and operations such as beds, holding cells, and treatment are provided which, taken together, constitute an alcohol detox "facility".

The purchase of real estate, including the land necessary for the construction, expansion, and/or operation of a detox facility, is permitted, as well as the purchase of vehicles. Both require prior written approval from the Division.

Each county allowed by statute to receive detox funds must submit an application for funding on a yearly basis. The application is provided by the Division annually.

**Appendix A**

**ARTICLE 6A  
Local DWI Grant Program**

Section

- 11-6A-1 Short title.
- 11-6A-2 Definitions.
- 11-6A-3 Local DWI grant program; fund.
- 11-6A-4 DWI grant council; membership; duties.
- 11-6A-5 Administration of local DWI grant program and county DWI program distribution; regulations.
- 11-6A-6 Distribution of certain local DWI grant program funds; approval of programs.

**11-6A-1. Short title.** (1993) Statute text

Sections 1 through 5 [11-6A-1 to 11-6A-5 and 11-6A-6 NMSA 1978] of this act may be cited as the "Local DWI Grant Program Act".

**History:** Laws 1993, ch. 65, § 1.

**Compiler's notes.** — 11-6A-6 NMSA 1978 was added to the local DWI Grant Program Act by Laws 1997, ch. 182, § 2.

**11-6A-2. Definitions.** (1993) Statute text

As used in the Local DWI Grant Program Act [11-6A-1 to 11-6A-6 NMSA 1978]:

- A. "council" means the DWI grant council; and
- B. "division" means the local government division of the department of finance and administration.

**History:** Laws 1993, ch. 65, § 2.

**11-6A-3. Local DWI grant program; fund.** (2003) Statute text

A. The division shall establish a local DWI grant program to make grants to municipalities or counties for:

- (1) new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse; and
- (2) programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse.

B. Grants shall be awarded by the council pursuant to the advice and recommendations of the division.

C. The "local DWI grant fund" is created in the state treasury and shall be administered by the division. Two million five hundred thousand dollars (\$2,500,000) of liquor excise tax revenues distributed to the fund and all other money in the fund, other than money

appropriated for distribution pursuant to Subsections D and E of this section and money appropriated for DWI program distributions, are appropriated to the division to make grants to municipalities and counties upon council approval in accordance with the program established under the Local DWI Grant Program Act [ 11-6A-1 NMSA 1978] and to evaluate DWI grantees and the local DWI grant program. Money in the fund may be used for drug courts. An amount equal to the liquor excise tax revenues distributed annually to the fund less five million six hundred thousand (\$5,600,000) is appropriated to the division to make DWI program distributions to counties upon council approval of programs in accordance with the provisions of the Local DWI Grant Program Act. No more than six hundred thousand dollars (\$600,000) of liquor excise tax revenues distributed to the fund in any fiscal year shall be expended for administration of the grant program. Balances in the fund at the end of any fiscal year shall not revert to the general fund.

D. Two million eight hundred thousand dollars (\$2,800,000) of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the division for distribution to the following counties in the following amounts for funding of alcohol detoxification and treatment facilities:

- (1) one million seven hundred thousand dollars (\$1,700,000) to class A counties with a population of over three hundred thousand persons according to the 1990 federal decennial census;
- (2) three hundred thousand dollars (\$300,000) each to counties reclassified in 2002 as class A counties with a population of more than ninety thousand but less than one hundred thousand persons according to the 1990 federal decennial census;
- (3) two hundred thousand dollars (\$200,000) to class B counties with a population of more than thirty thousand but less than forty thousand persons according to the 1990 federal decennial census;
- (4) one hundred fifty thousand dollars (\$150,000) to class B counties with a population of more than sixty-two thousand but less than sixty-five thousand persons according to the 1990 federal decennial census; and
- (5) one hundred fifty thousand dollars (\$150,000) to class B counties with a population of more than thirteen thousand but less than fifteen thousand persons according to the 1990 federal decennial census.

E. Three hundred thousand dollars (\$300,000) of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the division for the interlock device fund to cover the costs of installing and removing ignition interlock devices for indigent people who are required, pursuant to convictions under Section 66-8-102 NMSA 1978, to install those devices in their vehicles.

F. In awarding DWI grants to local communities, the council:

- (1) may fund new or existing innovative or model programs, services or activities designed to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse;
- (2) may fund existing community-based programs, services or facilities for prevention, screening and treatment of alcoholism and alcohol abuse;
- (3) may fund new or existing innovative or model programs, services or activities of any kind designed to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism or alcohol abuse;
- (4) may fund existing community-based programs, services or facilities for prevention and treatment of domestic abuse related to DWI, alcoholism or alcohol abuse;
- (5) shall give consideration to a broad range of approaches to prevention, education, screening, treatment or alternative sentencing, including programs that combine

incarceration, treatment and aftercare, to address the problem of DWI, alcoholism or alcohol abuse; and

(6) shall make grants only to counties or municipalities in counties that have established a DWI planning council and adopted a county DWI plan or are parties to a multicounty DWI plan that has been approved by the council and approved pursuant to Chapter 43, Article 3 NMSA 1978 and only for programs, services or activities consistent with that plan. A DWI plan shall also comply with local DWI grant program rules and guidelines.

G. The council shall use the criteria in Subsection F of this section to approve DWI programs, services or activities for funding through the county DWI program distribution. Sixty-five percent of the DWI grants awarded to local communities shall be used for alcohol-related treatment and detoxification programs.

**History:** Laws 1993, ch. 65, § 3; 1997, ch. 182, § 3; 1999, ch. 18, § 1; 2000, ch. 83, § 2; 2001, ch. 112, § 2; 2003, ch. 213, § 1.

**Cross references.** — For distribution from liquor excise tax revenues, see 7-1-6.40 NMSA 1978.

**The 1997 amendment,** effective July 1, 1998, in Subsection A, substituted "Two million dollars (\$2,000,000) of liquor excise tax revenues distributed to the fund and all other money in the fund, other than money appropriated for DWI program distributions, are" for "Money in the fund is" in the first sentence, added the second sentence, and substituted "the two million dollars (\$2,000,000) of liquor excise tax revenues distributed" for "any appropriation" in the third sentence; rewrote Paragraph C(3); and added Subsection D.

**The 1999 amendment,** effective June 18, 1999, in Subsection C, inserted "or existing" in Paragraph (1) and redesignated former Paragraphs (4) and (5) as present Paragraphs (3) and (4).

**The 2000 amendment,** effective July 1, 2001, in Subsection B, inserted "appropriated in fiscal year 2002 for distribution pursuant to Subsection C of this section and money" in the second sentence, substituted "four million dollars (\$4,000,000) in fiscal year 2001 and two million dollars (\$2,000,000) in each fiscal year thereafter" for "two-million dollars (\$2,000,000)" in the third sentence, and substituted "one hundred thousand dollars (\$100,000)" for "five percent of the two million dollars (\$2,000,000)" in the fourth sentence; added a new Subsection C, redesignating the remaining subsections accordingly; and updated the internal reference in present Subsection D.

**The 2001 amendment,** effective July 1, 2001, in Subsection B, deleted "in fiscal year 2002" following "other than money appropriated", substituted "four million eight hundred thousand dollars (\$4,800,000)" for "four million dollars (\$4,000,000) in fiscal year 2002 and two million dollars (\$2,000,000) in each fiscal year thereafter"; in Subsection C, substituted "Two million eight hundred thousand dollars (\$2,800,000)" for "In fiscal year 2002, two million dollars (\$2,000,000)" in the preliminary language; in Paragraph (2), inserted "each to counties classified in 2000 as", substituted "one hundred thousand persons" for "ninety-six thousand persons", and added Paragraph (3).

**The 2003 amendment,** effective July 1, 2003 rewrote former Subsection A to create present Subsections A and B and redesignated former Subsections B and C as present Subsections C and D; rewrote present Subsection C; substituted "reclassified in 2002 as Class A counties" for "classified in 2000 as class B counties" following "each to counties" near the beginning of present Subsection D(2); added present Subsection E and redesignated the subsequent subsections accordingly; inserted present Subsections F(3) and F(4) and redesignated former Subsections F(3) and F(4) as present Subsections F(5) and F(6); and in Subsection G, substituted "F" for "D" following "Subsection" near the beginning and

added "Sixty-five percent of the DWI grants awarded to local communities shall be used for alcohol-related treatment and detoxification programs." at the end.

**11-6A-4. DWI grant council; membership; duties. (2001)**

A. The "DWI grant council" is created and shall consist of the president of the New Mexico municipal league or his designee, the president of the New Mexico association of counties or his designee, the secretary of health or the secretary's designee, the secretary of finance and administration or the secretary's designee, the chief of the traffic safety bureau of the state highway and transportation department and two representatives of local governing bodies who shall be appointed by the governor so as to provide geographic diversity.

B. Appointed members shall be appointed to a two-year term. In the event of a vacancy, the governor shall appoint a member for the remainder of the term.

C. The council shall meet as necessary to receive applications, consider grant requests and award DWI grants pursuant to the Local DWI Grant Program Act [11-6A-1 to 11-6A-6 NMSA 1978]. All actions of the council require the affirmative vote of a majority of the members of the council.

D. Members of the council shall be reimbursed for per diem and mileage in accordance with the Per Diem and Mileage Act [10-8-1 to 10-8-8] NMSA 1978].

**History:** Laws 1993, ch. 65, § 4; 2001, ch. 186, § 1.

**Cross references.** — For local government division, see 6-6-2 NMSA 1978.

For traffic safety bureau, see 66-7-504 NMSA 1978.

**The 2001 amendment,** effective June 15, 2001, in Subsection A, inserted "or his designee" following "municipal league" and "association of counties".

**11-6A-5. Administration of local DWI grant program and county DWI program distribution; regulations. (2003)**

A. The division shall administer and evaluate the local DWI grant program and the county DWI program distribution and shall serve as staff to the council.

B. The division, with the advice and approval of the council, shall adopt regulations necessary for operation of the local DWI grant program and the county DWI program distribution, including:

- (1) forms and procedures for the application process for the local DWI grant program and the county DWI program distribution;
- (2) documentation to be provided by the applicant to assure compliance with the grant and the county DWI program distribution guidelines and other provisions of the Local DWI Grant Program Act [11-6A-1 NMSA 1978];
- (3) procedures and guidelines for review, evaluation and approval of grant awards and for review and approval of programs to be funded by the county DWI program distribution;
- (4) procedures and guidelines for oversight, evaluation and audit of DWI grantees to assure that grants are being administered in the manner and for the purposes that the grants were awarded; and

(5) design of an evaluation mechanism for DWI grant programs, distributions and services and submission by each DWI grantee of an annual report or other data on each local DWI grant program, distribution or service and its effectiveness and outcomes.

**History:** Laws 1993, ch. 65, § 5; 1997, ch. 182, § 4; 2003, ch. 213, § 2.

**The 1997 amendment,** effective July 1, 1998, inserted "and county DWI program distribution" in the section heading; inserted "and the county DWI program distribution" in four places in Subsections A and B; and added the language beginning "and for review" at the end of Paragraph B(3).

**The 2003 amendment,** effective July 1, 2003, inserted "local" preceding "DWI grant program" in the heading; in Subsection A, inserted "and evaluate" following "shall administer" near the beginning and inserted "local" preceding "DWI grant program" near the middle; inserted "local DWI" preceding "grant program" near the middle of Subsection B; inserted "local DWI" preceding "grant program" near the middle of Subsection B(1); in Subsection B(5) inserted "distributions" following "grant programs," near the beginning, inserted "DWI" preceding "grantee" near the middle, inserted "or other data" following "annual report" near the middle, inserted "local DWI" preceding "grant program" near the end and inserted "distribution" following "grant program," near the end.

**11-6A-6. Distribution of certain local DWI grant program funds; approval of programs. (2003)**

A. An amount equal to the liquor excise tax revenues distributed to the local DWI grant fund for the fiscal year less five million six hundred thousand dollars (\$5,600,000) shall be available for distribution in accordance with the formula in Subsection B of this section to each county for council-approved DWI programs, services or activities; provided that each county shall receive a minimum distribution of at least one-half percent of the money available for distribution.

B. Each county shall be eligible for a DWI program distribution in an amount derived by multiplying the total amount of money available for distribution by a percentage that is the average of the following two percentages:

(1) a percentage equal to a fraction, the numerator of which is the retail trade gross receipts in the county and the denominator of which is the total retail trade gross receipts in the state; and

(2) a percentage equal to a fraction, the numerator of which is the number of alcohol-related injury crashes in the county and the denominator of which is the total alcohol-related injury crashes in the state.

C. A county shall be eligible to receive the distribution determined pursuant to Subsection B of this section if the board of county commissioners has submitted to the council a request to use the distribution for the operation of one or more DWI programs, services or activities in the county and the request has been approved by the council. The request shall also comply with local DWI grant program rules and guidelines.

D. No later than April 1<sup>st</sup> of each year, each board of county commissioners seeking approval for the DWI program distribution pursuant to this section shall make application to the division for review and approval by the council for one or more local DWI programs, services or activities in the county. Application shall be made on a form and in a manner determined by the division. The council shall approve the programs eligible for a distribution no later than July 1<sup>st</sup> of each year. The division shall make the annual distribution to each county in quarterly installments on or before each September 10, December 10, March 10 and June 10, beginning in

September 2004. The amount available for distribution quarterly to each county shall be the amount determined by applying the formula in Subsection B of this section to the amount of liquor excise tax revenues in the local DWI grant fund at the end of the month prior to the quarterly installment due date and after one million three hundred twenty-five thousand dollars (\$1,325,000) has been set aside for the DWI grant program and after the appropriations and distributions pursuant to Subsections D and E of Section 11-6A-3 NMSA 1978.

E. If a county does not have a council-approved DWI program, service or activity or does not need the full amount of the available distribution, the unused money shall revert to the local DWI grant fund and may be used by the council for the local DWI grant program.

F. As used in this section:

(1) "alcohol-related injury crashes" means the average annual number of alcohol-related injury crashes during the period from January 1, 2000 through December 31, 2002, as determined by the traffic safety bureau of the state highway and transportation department; and

(2) "retail trade gross receipts" means the total reported gross receipts attributable to taxpayers reporting under the retail trade industry sector of the state for the most recent fiscal year as determined by the taxation and revenue department.

**History:** Laws 1997, ch. 182, § 2; 2000, ch. 83, § 3; 2001, ch. 112, § 3; 2003, ch. 213, § 3.

**The 2000 amendment,** effective July 1, 2001, substituted "four million dollars (\$4,000,000) in fiscal year 2002 and two million dollars (\$2,000,000) in each fiscal year thereafter" for "two million dollars (\$2,000,000)" in Subsection A; in Subsection D substituted "a distribution" for "funds" in the third sentence, inserted "local DWI grant" preceding "fund" in the fourth sentence, and inserted "and, in fiscal year 2002, after the appropriation and distribution pursuant to Subsection C of Section 11-6A-3 NMSA 1978" at the end.

**The 2001 amendment,** effective July 1, 2001, substituted "four million eight hundred thousand dollars (\$4,800,000)" for "four million dollars (\$4,000,000) in fiscal year 2002 and two million dollars (\$2,000,000) in each fiscal year thereafter" in Subsection A, and deleted "in fiscal year 2002" following "DWI grant program and" in Subsection D.

**The 2003 amendment,** effective July 1, 2003, substituted "five million six hundred thousand dollars (\$5,600,000)" for "four million eight hundred thousand dollars (\$4,800,000)" near the middle of Subsection A; added "The request shall also comply with local DWI grant program rules and guidelines." at the end of Subsection C; in Subsection D, substituted "April" for "August" in the first sentence, substituted "July" for "September" in the third sentence, substituted "September" for "October", "December" for "January", "March" for "April", "June" for "July" and "September 2004" for "October 1997" in the fourth sentence, and in the fifth sentence substituted "one million three hundred twenty-five thousand dollars (\$1,325,000)" for "five hundred thousand dollars (\$500,000)" near the end and substituted "D and E" for "C" following "Subsections" near the end; in Paragraph F(1) substituted "2000" for "1993" following "January 1" and substituted "2002" for "1995" following "December 31" near the middle.

**Appendix B**

This rule was filed as 2 NMAC 110.4.

**TITLE 2 PUBLIC FINANCE**

**CHAPTER 110 LOCAL GOVERNMENT GRANTS**

**PART 4 LOCAL DWI GRANT AND DISTRIBUTION OF CERTAIN DWI GRANT PROGRAM**

**FUND**

**2.110.4.1 ISSUING AGENCY:** Department of Finance and Administration, Local Government Division.

[2.110.4.1 NMAC - Rp, 2 NMAC.110.4.1, 12/30/2016]

**2.110.4.2 SCOPE:** All county and municipal governments.

[2.110.4.2 NMAC - Rp, 2 NMAC.110.4.2, 12/30/2016]

**2.110.4.3 STATUTORY AUTHORITY:**

**A.** The Local DWI Grant Program Act, being Sections 11-6A-1 through 11-6A-6 NMSA 1978, as amended, provides for the local DWI grant program to be established by the local government division of the department of finance and administration to award grants to municipalities and counties for:

- (1)** new, existing innovative or model programs, services and activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse; and
- (2)** programs, services and activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse. The DWI grant council is created to receive applications, consider grant requests and award DWI grants pursuant to the act.

**B.** Pursuant to Section 11-6A-5 NMSA 1978, as amended, the division, with advice and approval of the council, shall adopt regulations necessary for operation of the local DWI grant program and the county DWI program distribution, including:

- (1)** forms and procedures for the application process for the local DWI grant program and the county DWI program distribution;
- (2)** documentation to be provided by the applicant to assure compliance with the grant and the county DWI program distribution guidelines and other provisions of the act;
- (3)** procedures and guidelines for review, evaluation and approval of grant awards and for review and approval of programs to be funded by the county DWI program distribution;
- (4)** procedures and guidelines for oversight, evaluation and audit of DWI grantees to assure that grants are being administered in the manner and for the purposes that the grants were awarded; and

(5) design of an evaluation mechanism for DWI grant programs, distributions and services and submission by each DWI grantee of an annual report or other data on each local DWI grant program, distribution or service and its effectiveness and outcomes.

[2.110.4.3 NMAC - Rp, 2 NMAC.110.4.3, 12/30/2016]

**2.110.4.4 DURATION:** Permanent.

[2.110.4.4 NMAC - Rp, 2 NMAC.110.4.4, 12/30/2016]

**2.110.4.5 EFFECTIVE DATE:** December 30, 2016 unless a later date is cited at the end of a section.

[2.110.4.5 NMAC - Rp, 2 NMAC.110.4.5, 12/30/2016]

**2.110.4.6 OBJECTIVE:** To establish procedures for the local DWI grant program applications and the distribution of certain local DWI grant program funds.

[2.110.4.6 NMAC - Rp, 2 NMAC.110.4.6, 12/30/2016]

**2.110.4.7 DEFINITIONS:**

**A. "Act"** means the Local DWI Grant Program Act, being Sections 11-6A-1 through 11-6A-6 NMSA 1978, as amended.

**B. "Administrative Guidelines"** means guidelines that establish the requirements for eligible counties and their municipalities to apply for funding and to administer the fund and that are consistent with both the applicable regulations and statute.

**C. "Alternative sentencing program"** means a program that provides -state courts with a sentencing alternative to traditional incarceration for a DWI offender while providing access to intervention services in an environment that is consistent with the "least restrictive" means possible, e.g., incarceration/treatment, non-residential treatment, compliance monitoring/tracking.

**D. "Board"** means the board of county commissioners of a county.

**E. "Compliance monitoring/tracking"** means any program or activity that enhances tracking, follow-up or otherwise works with DWI and other alcohol-related misdemeanor offenders to assist state courts in the monitoring of offenders for compliance with court-ordered sanctions.

**F. "Council"** means the New Mexico DWI grant council created pursuant to the act. Membership of the council consists of the president of the New Mexico municipal league or designee, the president of the New Mexico association of counties or designee, the secretary of health or the secretary's designee, the secretary of finance and administration or the secretary's designee, the chief of the traffic safety bureau of the state highway and transportation department, and two representatives of local governing bodies who shall be appointed by the governor so as to provide geographic diversity.

**G. "County DWI Plan"** means the local DWI grant application developed with the advice of the council and approved by the human services department.

**H. "County DWI planning council"** means a county planning council that is representative of a broad spectrum of interests and cultural perspectives such as, emergency medical services, community substance abuse treatment, public health, community traffic safety, law enforcement, courts/judicial, prosecutor/legal, and schools. A county DWI planning council is organized to assist in the development, implementation and evaluation of a county DWI program.

**I. "DFA"** means the department of finance and administration.

**J. "Division"** means the local government division of the department of finance and administration.

**K. "Distribution program"** means the distribution of certain local DWI grant funds on a quarterly basis by the division from the fund to eligible counties for council-approved DWI programs, services or activities in an amount in accordance with the formula in Subsection B of Section 11-6A-6 NMSA 1978 as amended.

**L. "DWI"** means driving while intoxicated.

**M. "Fund"** means the local DWI grant fund created pursuant to the act, which receives a portion of liquor excise tax revenue and is administered by the division.

**N. "Grant program"** means the local DWI grant program established by the division to make grants to municipalities or counties for new, existing innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism and alcohol abuse. Grants shall be awarded by the council pursuant to the advice and recommendations of the division and the requirements of Subsection C of Section 11-6A-3 NMSA 1978, as amended.

**O. "Enforcement program"** means any program or activity improving law enforcement approaches to prevent or deter DWI behavior, such as DWI checkpoints, saturation patrols, warrant roundups and underage drinking prevention activities. Local DWI grants may be used for law enforcement overtime only in support of these types of activities. On a case by case basis local DWI grants may be used for a full-time DWI law enforcement officer if sufficient justification is provided.

**P. "Local DWI grant application"** means the forms required by the division to request funding through the fund.

**Q. "Offender program"** means any program or activity with the purpose of reducing the recidivism of DWI offenders.

**R. "Prevention program"** means any program or activity that has as its objective the fostering or creation of an environment that helps individuals make healthy and safe choices to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse. Prevention programs should be designed to increase the ability of an individual to change behavior related to the misuse or abuse of alcohol, to resist pressures or influences to misuse or abuse alcohol, and to prevent or reduce the incidence of DWI, alcoholism, or alcohol abuse.

**S. "Public information and education program"** means any program or activity aimed at informing communities, families, and individuals about ways to improve efforts toward zero-tolerance of DWI and to support social action for change, such as holiday "survival" campaigns for safety, media conferences, speaker bureaus,

resource libraries, emergency medical service professionals providing school presentations, bill boards, and community fairs.

**T. "Screening program"** means the use of empirically-based procedures, such as standardized tests, self-reporting techniques and interviews to identify, at the judicial stage, those DWI offenders who have alcohol or drug-related problems/consequences, who are at risk for such difficulties, or who are at high risk of DWI recidivism. Screening measures are not designed to explain the nature and extent of such problems, or to substitute for assessments to aid in the treatment planning process.

**U. "Supplantation"** means the replacement or substitution of existing funding with local DWI grant funding.

**V. "Teen court program"** means an alternative sentencing program for juveniles accused of minor offenses, which program is sanctioned by a state court or by the juvenile justice division of the children, youth and families department's juvenile probation and parole offices. Teen court program includes juvenile defendants, paid or volunteer staff, teen court judges, community liaison, bailiffs, court clerks and teens serving as jurors, attorneys, or performing other duties.

**W. "Treatment program"** means an array of individual, family, group or social programs or activity alternatives directed to intervene and address DWI, alcohol problems and alcohol dependence, or alcoholism or alcohol abuse. Treatment seeks to reduce the consumption of alcohol, to support abstinence and recovery from drinking alcohol, and to improve physical health, family and social relationships, emotional health, well-being, and general life functioning.

[2.110.4.7 NMAC - Rp, 2 NMAC.110.4.7, 12/30/2016]

#### **2.110.4.8 ELIGIBLE APPLICANTS:**

**A.** Eligible applicants include all counties and all incorporated municipalities that join with the county in which they are located to participate in the proposed application, or any combination of two or more counties and the incorporated municipalities within the boundaries of the counties.

**B.** The council shall make grants only to counties or municipalities in counties that have established a local DWI planning council and adopted a county DWI plan or are parties to a multi-county DWI plan that has been approved by each applicable board and county DWI planning council pursuant to Section 43-3-15 NMSA 1978, as amended.

**C.** Pueblo and tribal governments and non-profit organizations are not eligible to apply directly under the grant and distribution programs. These entities are encouraged to participate in the county DWI planning council process.

**D.** Municipalities may apply for funding if they are officially designated as fiscal agent for their county by resolution of the applicable county board.

**E.** For multi-county applicants within reasonable geographic proximity to one another, a lead county or municipality must be identified to administer the project.

**F.** County DWI planning councils must have provided each municipality and tribal government within the county the opportunity to participate in the development

of the application. Documentation of the applicant's efforts to acquire municipal or tribal government participation and endorsement must be presented with the application.

[2.110.4.8 NMAC - Rp, 2 NMAC.110.4.9, 12/30/2016]

**2.110.4.9 ELIGIBLE PROGRAMS, SERVICES OR ACTIVITIES:** These include the following:

**A.** New, existing innovative or model programs, services, or activities of any kind designed to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse. As provided in the definitions set forth in these regulations, areas suggested for programs and activities are prevention, enforcement, education, screening, treatment, compliance monitoring/tracking, alcohol related domestic violence, or alternative sentencing including programs that combine incarceration, treatment and aftercare, to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse or domestic abuse related to DWI, alcoholism or alcohol abuse.

**B.** Existing community-based programs, services, or facilities for prevention, screening, and treatment of alcoholism and alcohol abuse, which demonstrate effective model approaches to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse or domestic abuse related to DWI, alcoholism or alcohol abuse.

[2.110.4.9 NMAC - Rp, 2 NMAC.110.4.10, 12/30/2016]

**2.110.4.10 APPLICATION LIMITATIONS:**

**A.** Distribution programs shall be limited to the county's projected year's distribution amount determined by the distribution formula as contained in Section 11-6A-6 NMSA 1978, as amended.

**B.** Grant programs shall be limited to programs, services or activities that meet the requirements of Subsection C of Section 11-6A-3 NMSA 1978, as amended.

**C.** Applicants are required to limit the time period of the application as follows:

**(1)** distribution programs and yearly grant programs are limited to the 12 month fiscal year; and

**(2)** multi-year grant programs are limited to no more than 36 months; all multi-year requests must be for projects, activities, or services that support or complement existing DWI efforts and are reasonably anticipated to extend beyond one year.

**D.** For grant and distribution program applications, a minimum of 10 percent of the proposed operating budget must be from county or municipal matching funds. Cash valued in-kind resources may be applied to the required matching funds; applications proposing to use in-kind resources as required matching funds must demonstrate the value of the in-kind resources to be provided.

**E.** All approvals will be limited by availability of funds. The division and the council will review requests for funding to ensure all proposed expenditures are justified, meaningful, and feasible within the project period. Justification of need and applicant's past performance will be considered.

F. Multi-county applications will be given preference.  
[2.110.4.10 NMAC - Rp, 2 NMAC.110.4.11, 12/30/2016]

**2.110.4.11 NUMBER OF APPLICATIONS:** To ensure the most efficient and effective use of grant program and distribution program funds, applications are limited as follows:

A. Number of applications - One application per county per grant and distribution program. A county may apply for the funding of a distribution program and a grant program to be implemented in the same fiscal year.

B. Multi-county applications - Two or more counties, within reasonable geographic proximity to each other, may submit a joint application. Parties to a joint application are limited to participation in one distribution program and one grant program.

[2.110.4.11 NMAC - Rp, 2 NMAC.110.4.12, 12/30/2016]

**2.110.4.12 INELIGIBLE ACTIVITIES:**

A. Capital outlay expenditures are limited to 10 percent of the total grant or distribution amount.

B. Land or building/facility acquisition with DWI grant or distribution funds is not allowed, except that programs eligible for alcohol detoxification grants pursuant to Subsection D of Section 11-6A-3 NMSA 1978 may request approval for land or building/facility acquisition.

C. Use of grant or distribution funds to pay for indirect administrative costs for DWI programs is not allowed in the grant or distribution programs, except that indirect administrative costs may be counted towards in-kind resources match. Administrative costs in direct support of programs may be budgeted in the direct program portion of the budget.

D. Supplantation - Grant or distribution program funds shall not be used to supplant other existing funds, but can be used for new, expanded, supplemental or complementary DWI activities.

E. Cash accumulations - Distribution program funding shall be obligated or encumbered in binding third-party obligations for council-approved programs, activities or services delivered in the fiscal year of the distribution. No distribution program funds may be accumulated beyond the fiscal year.

F. Cash transfers - Grant or distribution program funds will not be transferred by the county or the municipality designated by the county as fiscal agent to other funds in the fiscal agents' budget from the fiscal agent's established, separate local DWI grant and distribution fund.

[2.110.4.12 NMAC - Rp, 2 NMAC.110.4.13, 12/30/2016]

**2.110.4.13 APPLICATION PROCEDURES, FORM AND CONTENT:**

A. Applications for grant and distribution program funds shall conform to application instructions determined by the division, including an original signed cover sheet.

**B.** In the event that an application is incomplete or requires modification, the applicant will be promptly notified by the division. The applicant must then immediately submit the information or modification requested. Applicants that do not respond in writing in the timeframe established by the division may be disqualified.

**C.** The applicant's governing body must authorize the county or municipality designated as fiscal agent for the county to submit the application by resolution.

**D.** The form and content of applications will be determined by the division. [2.110.4.13 NMAC - Rp, 2 NMAC.110.4.14, 12/30/2016]

**2.110.4.14 APPLICATION REVIEW, RATING AND SELECTION:**

**A.** The following review, rating and selection process will be used by the division for presentation to the council:

**(1)** Upon receipt of grant and distribution program applications, division staff shall review for eligibility, completeness and compliance. Additional information may be required and requested. The division may, in its discretion, consult appropriate experts for information and advice concerning technical aspects of any application.

**(2)** Division staff shall make recommendations to the council on the eligibility of distribution program applications considering compliance with these regulations and the act.

**(3)** Division staff shall rate grant program applications and present recommendations to the council based on the extent to which applicants meet program rating criteria.

**B.** Applications will be rated on the following criteria:

**(1)** quality of statistical analysis of local data identifying gaps and needs;

**(2)** quality of discussion around the focus of the project, reason for selection of components and brief descriptions of each component;

**(3)** demonstrated reasonableness and justified costs appropriate to the proposed activities of component budgets (quantifies costs with a best estimate of units, activities, clients, etc.);

**(4)** measures of past performance;

**(5)** community participation, collaboration and planning - extent to which the local DWI planning council, solicited participation from municipal, tribal and pueblo representatives, extent of involvement by such parties in developing the application, and how the applicant provides continuing opportunities for public participation in the planned implementation and evaluation of the program's efforts;

**(6)** extent to which there is proposed leveraging of in-kind match, cash match, self-sufficiency or other funding sources; and

**(7)** extent to which the proposal is for new, innovative or model programs, services or activities.

**C.** The council will review division staff ratings and recommendations, and will make grant program funding decisions and distribution program approvals in an open public meeting held in accordance with the Open Meetings Act. The council may,

in its sole discretion, approve all, part or none of an application, and may adjust the scope and dollar amounts of grant program applications. The council will make its grant program funding and distribution program approval determinations by a majority vote of the full council.

[2.110.4.14 NMAC - Rp, 2 NMAC.110.4.15, 12/30/2016]

**2.110.4.15 REVERSIONS, SUPPLEMENTAL FUNDING AND UNDERRUNS:**

**A.** Reversions/supplemental funding - When funds are reverted from a previously-approved grant program project or distribution program award, or additional funds are made available for council award for any other reason, the council may:

- (1) set aside the funds in a contingency fund; or
- (2) take other action as deemed appropriate.

**B.** Underruns - If, at the end of the fiscal year, a balance of funds remains after all expenditures have been reimbursed, the balance of funds for a grant or distribution program project shall revert to the fund. This underrun rule applies to multi-year grant programs in the last fiscal year of the council-approved program.

**C.** Special applications - Should additional funds become or be determined to be available in the fund, the council may call for and act on special applications from eligible applicants. The purpose and rating criteria of the special applications will be outlined in the call for applications.

[2.110.4.15 NMAC - Rp, 2 NMAC.110.4.16, 12/30/2016]

**2.110.4.16 ADMINISTRATIVE PROCEDURES:**

**A.** All successful grant and distribution program applicants must adhere to state procurement laws, regulations and other procedures as established by the division, to ensure that all grant and distribution program funds are expended in accordance with state law.

**B.** All counties and municipalities designated by a county as a fiscal agent must set up a separate local DWI grant and distribution program fund in the county or municipality's budget. This fund must be included in the entity's budget process and financial reports.

[2.110.4.16 NMAC - Rp, 2 NMAC.110.4.17, 12/30/2016]

**2.110.4.17 SANCTIONS:**

**A.** Grantee sanctions may include any administrative action authorized by the division director taken against a grant or distribution program for improper or inadequate performance or non-compliance with one or more condition(s) of the grant agreement, based on state program requirements, or failure to follow through on the approved DWI application, including the signed statement of assurances or the local DWI planning council approved plan. In each instance, to the extent possible under the circumstances, the sanctions imposed by the director will be intended first, to correct the deficiency; second, to mitigate any adverse effects or consequences of the deficiency; and third, to prevent recurrence of the same or similar deficiencies.

**B.** Examples of deficiencies include but are not limited to the following:

- (1) failure to correct monitoring or audit findings;
- (2) failure to document and report to the division in a timely manner all DWI expenditures of the grant or distribution programs;
- (3) failure to implement the project in a timely fashion;
- (4) lack of continuing capacity to administer the program;
- (5) failure to execute planned activities in accordance with the grant agreement or the approved DWI application for distribution programs;
- (6) failure to comply with the local DWI planning council approved plan; and
- (7) implementation of a project change without prior division approval.

**C.** Types of sanctions:

(1) The division director may withhold grant program reimbursement payments, or disallow further distribution draw-downs when there are specific irregularities in payment requests or contractual obligations.

(2) The division director may withhold distributions to distribution programs if the DWI program is not implementing the council-approved DWI programs, services or activities as set forth in the application.

(3) The division director may suspend authority to proceed with any grant or distribution program's programs, services or activities when monitoring of the programs, services or activities warrants such action. Cause for suspension may include local management or project administration irregularities or nonperformance in matters of program compliance, failure to comply with the state procurement code, failure to implement council-approved DWI programs, services or activities as set forth in the application, including the signed statement of assurances, failure to implement the local DWI planning council approved plan, or any other failures or unsatisfactory performance for which the grant or distribution program has been cited by written correspondence or instructions. Any suspension will be in effect until the grant or distribution program cures all causes for suspension, or until termination. The division director shall provide the grant or distribution program with an opportunity to appeal the suspension within 15 calendar days after receipt of written notice of the suspension to demonstrate why the grant or distribution should not be suspended. The director will review any appeal of the suspension and may, in the director's sole discretion, proceed with the suspension, impose another sanction, or resume normal processing of the grant or distribution program.

(4) Termination:

(a) The division director may terminate a grant or distribution program's receipt of further funds after receiving council approval to do so.

(b) Grounds for termination:

(i) the grantee or distribution program is noncompliant with state program statutory requirements, or these regulations;

(ii) the grantee or distribution program lacks the continuing capacity to administer the project;

(iii) the grantee or distribution program has not implemented the project in a timely manner; or

(iv) the grantee or distribution program has not implemented the DWI programs, services or activities approved by the council in the county program application.

[2.110.4.17 NMAC - Rp, 2 NMAC.110.4.18, 12/30/2016]

**2.110.4.18 COUNCIL AUTHORITY:** The council may at any time waive or adjust any requirement imposed in these regulations so long as the council finds that the waiver or adjustment is in the best interest of the state and that the waiver or adjustment does not unduly penalize or favor any applicant or violate any state law or other regulation.

[2.110.4.18 NMAC - Rp, 2 NMAC.110.4.19, 12/30/2016]

**HISTORY OF 2.110.4 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

DFA-LGD Rule No. 93-2, Local Driving While Intoxicated/Impaired (DWI) Grant Program Regulations Governing Program Application and Operations, 5/20/1994.

DFA-LGD Rule No. 94-1, Local Driving While Intoxicated/Impaired (DWI) Grant Program Regulations Governing Program Application and Operations, 10/18/1994.

DFA-LGD Rule No. 95-3, Local Driving While Intoxicated/Impaired (DWI) Grant Program Regulations Governing Program Application and Operations, 11/17/1995.

**History of Repealed Material:** 2 NMAC 110.4, Local DWI Grant and Distribution of Certain DWI Grant Program Funds, filed 10/1/2001, repealed effective 12/30/2016.

## ***Appendix C***

### **Sample Job Description for DWI Coordinators**

#### **Skills, Experience, Education:**

Coordination, planning & evaluation- self-starter who works with little supervision, able to learn on their own, problem-solver with good organizational skills.

#### **Administration:**

Budgeting, finance, planning, supervision of employees, organizational skills, understanding of local government process, all phases of procurement: request for proposals, contract development, purchasing, government work experience, grant writing and implementation experience; ability to implement programs within boundaries of law, regulations and program guidelines; experience with programs targeting alcohol or alcohol abuse and treatment, facility management (especially if an Alcohol Detoxification Grant is funded); experience with prevention programs, court programs; computer experience: spreadsheet, word-processing, data base, web, and e-mail.

#### **Coordination:**

Work with advocate groups, leadership skills, event and meeting organizing, facilitation/mediation, community organizer, ability to work with a wide variety of professionals: law enforcement, the judicial, mental health, education, probation, experience working with commissioners, fiscal agent personnel (county or city).

#### **Evaluation:**

Skills and experience in: statistical analysis, program evaluation, outcome based programming.

## ***Appendix D***

### **DFA Policy for Excused Absences from Mandatory DWI Grant Council Meetings**

#### **Background**

The DWI Grant Council (Council) passed a motion during the April 12, 2011 DWI Grant Council Meeting to make it mandatory for any local DWI program seeking Program funding (including detox funding) to attend, in its entirety each DWI Grant Council Meeting, at which funds are being requested and allocated. The Council directed the Department of Finance and Administration (DFA) to write a policy on excused absences.

#### **Policy**

It is mandatory that any local DWI program seeking Local DWI Grant, Distribution, Detox or other available funds to attend each DWI Grant Council Meeting at which funds are being requested and allocated. The DWI Coordinator is the most appropriate person to attend the meetings. In the case that a DWI Coordinator is unable to attend a Council meeting, they must send a representative of the program/fiscal agent in their place. If the program is represented by someone other than the DWI Coordinator, DFA must be informed of the name and responsibility of the person one week in advance of the meeting.

If no representative of the program/fiscal agent is available to attend, DFA will approve the absence, if one or more of the following reasons exist:

- 1) Weather (ice storms, snow storms, etc.), which makes travel dangerous
- 2) Transportation accidents on the way to the meeting
- 3) Other reason with reasonable justification

A program must inform DFA as soon as they are aware of an absence and must be able to provide sufficient justification for the absence, so that it may be approved by DFA.