



New Mexico
Office of the
State Auditor

GAO
Government
Accountability
Office

Risk
Advisory



1-866-OSA-FRAUD

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State Auditor
Wayne Johnson

May 17, 2018

Risk Advisory to State Agencies:
State-wide Comprehensive Annual Report (CAFR)
Reporting Deadlines for FY2018 Financial Reports

This Risk Advisory places state agencies included in the statewide CAFR on notice that State Auditor Johnson will require state agencies to comply with the requirement to produce timely financial statements to DFA in order to allow DFA to prepare the FY 2018 statewide CAFR in a timely manner.

NMSA 1978, § 12-6-3 provides that “the comprehensive annual financial report for the state shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor’s office designated by the state auditor, or independent auditors approved by the state auditor.” Further, it provides that “the audits shall be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor.”

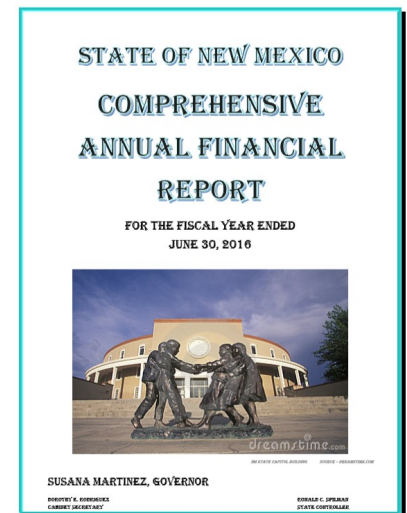
The current version of the Audit Rule, § 2.2.2.9 establishes deadlines for the submission of audit reports to the State Auditor, and requires that most state agencies submit their audits by November 1 of each calendar year. Further, that rule provides that the state CAFR will be completed by December 31 of each calendar year.

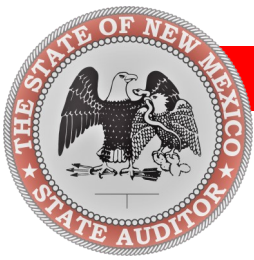
Since at least 2008, the statewide CAFR has not been completed by the December 31st deadline. State Auditor Wayne Johnson believes there are several issues causing the statewide CAFR to be produced late, but the primary cause is the late submission of completed audits by state agencies. In order to complete the statewide CAFR in a timely manner, the Department of Finance and Administration (DFA) requires access to the financial statements of each agency.

In October 2008, the DFA and then-State Auditor, Hector Balderas, issued a joint letter to state agencies regarding the oversight duties of the DFA with regard to preparation of the statewide CAFR, and addressed the applicable statutes, including NMSA 1978 § 12-6-5, regarding confidentiality, and NMSA 1978 § 6-5-4.1, regarding DFA’s oversight duties.

The letter concluded with the following directive to state agencies:

An agency shall provide a copy of its draft audited financial statements to [Financial Control Division] in order that FCD may compile the CAFR. This specific requirement can be viewed as an exception to the general requirement of Section 12-6-5 NMSA 1978. However, an agency may only release that information to FCD and not to the public. The agency’s audit report also is not a public record unless released in accordance with Section 12-6-5 NMSA 1978.





The same directive was included in the Audit Rule, Section 2.2.2.12(A)(17) as follows:

Oversight duties of DFA-FCD – On October 3, 2008, the state controller and the state auditor distributed a letter to agencies regarding FCD’s request for agencies draft financial statements for the preparation of the CAFR for the state. Agencies were concerned about violating Section 12-6-5 NMSA 1978. However, Subsections of Section 6-5 2.1 NMSA 1978 states that FCD shall have access to and authority to examine books, accounts, reports, vouchers, correspondence, files and other records, bank accounts, money and other property of a state agency. In addition, Section 6-5-4.1 NMSA 1978 mandates that FCD shall compile the CAFR. After some consideration and discussion of the conflicting statutes, the state controller and the state auditor concluded that pursuant to these rules, Sections 6-5-4.1 and Section 12-6-5 NMSA 1978 should be construed to give effect to both statute and the corresponding administrative rules. Therefore, an agency shall provide a copy of its draft audited financial statements to FCD in order that FCD may compile the CAFR. However, the agency may only release that information to FCD and not to the public. The agency’s audit report also is not a public record unless released in accordance with 12-6-5 NMSA 1978. The audited draft financial statements submitted to DFA shall exclude the opinions and findings. The entire letter is available at:<http://www.nmdfa.state.nm.us/uploads/FileLinks/293b21bdbc044c04bd0dbc6de01def7e/DFAFCD%20Oversight%20Letter.pdf>. (Emphasis added).

The directive set forth in the 2008 letter, and the corresponding requirements in the Audit Rule do not appear to have been complied with by state agencies from 2008 to 2018. As a result, the statewide CAFR has never been prepared within the time limits set forth in the Audit Rule because DFA does not have access to the information needed to complete the CAFR.

The late production of the statewide CAFR is detrimental to the financial interests of the state, resulting in lower bond ratings and higher interest expense to the state.

Therefore, in order to allow DFA to produce a timely statewide CAFR, Auditor Johnson is proposing a change to the due dates in the Audit Rule to remove any ambiguity regarding the requirement for state agencies to submit their financial statements for inclusion in a timely statewide CAFR. The proposed change to the Audit Rule, 2.2.2.9(A)(1) is as follows:

2.2.2.9 REPORT DUE DATES

A. Report due dates: The IPA shall deliver the organized and bound annual financial audit report to the state auditor by 5:00 p.m. on the date specified in the audit contract or send it postmarked by the due date. IPAs and agencies are encouraged to perform interim work as necessary and appropriate to meet the following due dates:

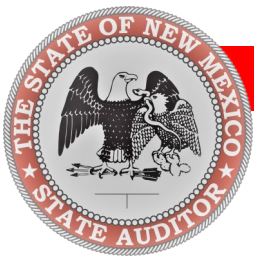
(1) The audit report due dates are as follows:

(a) regional education cooperatives, cooperative educational housing authorities: September 30

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(b) hospitals and special hospital districts: October 15;

(c) higher education, state agencies not specifically named elsewhere in this subsection, district courts, district attorneys, the New Mexico finance authority, the New Mexico lottery authority, and other agencies with June 30 fiscal year ends that are reported as component units in the state of New Mexico comprehensive annual financial report: Audited financial statements delivered to DFA for preparation of statewide CAFR October 15th; remainder of audit report including audited financial statements: November 1;

(d) school districts and the state of New Mexico component appropriations funds (state general fund):): Audited financial statements delivered to DFA for preparation of statewide CAFR for those entities included in the State of NM CAFR – October 15th; the remainder of the audit report, including audited financial statements November 15;

(e) the PED, the state investment council, and the three post-agencies (PERA, ERB and the retiree healthcare authority): Audited financial statements delivered to DFA for preparation of statewide CAFR – October 15th; the remainder of the audit report, including audited financial statements the Wednesday before Thanksgiving day;

(f) counties, incorporated counties (of which Los Alamos is the only one), workforce investment boards, councils of government, and the New Mexico mortgage finance authority: Audited financial statements delivered to DFA for preparation of statewide CAFR for those entities included in the State of NM CAFR – October 15th; the remainder of the audit report, including audited financial statements December 1;

(g) local public bodies including municipalities: December 15

(h) the state of New Mexico comprehensive annual financial report (CAFR): December 31

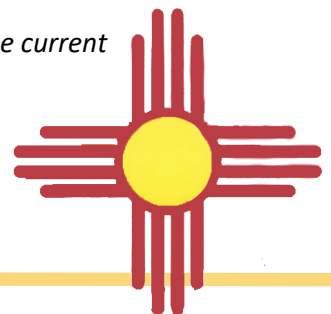
(i) the ERB, PERA and retiree healthcare authority schedules of employer allocations reports and related employer guides required by SubSections Z and DD of Section 2.2.2.10 NMAC June 15;

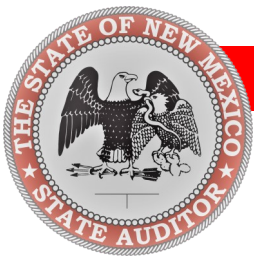
(j) agencies with a fiscal year-end other than June 30 shall submit the audit report no later than five months after the fiscal year-end;

(k) regarding component unit reports (e.g. housing authorities, charter schools, hospital foundations, etc.), all separate audit reports prepared by an auditor that is different from the primary government's auditor are due fifteen days before the primary government's audit report is due, unless some other applicable due date requires the report be submitted earlier;

(l) any agency that requires its report to be released by December 31st for any reason (bonding, GFOA, etc.): the earlier of its agency due date or December 1; ~~and~~

(m) late audit or agreed upon procedures reports of any agency (not performed in the current





reporting period): not more than six months after the date the contract was executed;

(n) the draft financial statements provided to DFA under Subsections (c) and (e) above shall be accompanied by a copy of any audit adjustments made by the agency or its IPA. The draft financial statements may only be released to DFA and shall not be released to the public until the full audit is released by the State Auditor; and

(o) Agency and IPA shall ensure balances in SHARE match the draft financial statements. Year-end trial balances must agree by fund with the balances reported in SHARE as of the fiscal year-end close. Audit adjustments (agency proposed or auditor adjustments) must be posted to the year-end trial balances by fund. The adjusted year-end trial balances must reconcile to the audited financial statements by fund. This also includes the fiduciary type funds. Agencies must reconcile the year-end adjusted trial balances to their financial statements. Differences between year-end adjusted trial balance and audited financial statements must be explained and supporting documentation provided to the CAFR Unit by November 2.

CONCLUSION:

This Risk Advisory places state agencies included in the statewide CAFR on notice that State Auditor Johnson will require state agencies to comply with the requirement to produce timely financial statements to DFA in order to allow DFA to prepare the FY 2018 statewide CAFR in a timely manner.

Further, the State Auditor's office will propose the change to the Audit Rule, 2.2.2.9 to require that the audited financial statements shall be produced to DFA no later than October 15, 2018, for inclusion in the statewide CAFR, and that Agencies and IPAs shall ensure that balances in SHARE match the submitted financial statements no later than November 2, 2018.

An agency's failure to provide its audited financial statements to DFA on or before the October 15 deadline will be deemed to be a failure to submit a timely audit report and result in an audit finding to the agency, as provided by NMAC 2.2.2.9(A)(2).

The Office of the State Auditor encourages agencies to seek the assistance of their IPAs if the agency is unable to produce and submit its audited financial statements or reconcile its SHARE balances to the submitted financial statements in a timely manner.

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