2018 Annual Report

For Fiscal Year 2017

Findings, Special Audits and Issues for Legislative and Policymaking Consideration

Wayne A. Johnson

New Mexico State Auditor

Table of Contents

Staff of the State Auditor's Office

Executive

State Auditor	Wayne A. Johnson
Deputy State Auditor	C. Jack Emmons, CPA, CFE
Chief of Staff	Bobbi Shearer
Deputy Chief of Staff	Enrique C. Knell
General Counsel	Bob Parker, JD
Deputy General Counsel	John Butrick, JD, MBA

Financial Audit Division

Financial Audit Director	Lynette Kennard, CPA, CGFM
Audit Manager	Elise Mignardot, CPA
Audit Manager	Shannon Sanders, CPA, CFE
Audit Manager	Liza Kerr, CPA, CIA, CISA
Audit Supervisor	Kevin Chavez, CPA
Audit Supervisor	Lisa Jennings
Senior Auditor	Kusum Adhikari
Senior Auditor	Antonio Baca, CPA
Senior Auditor	Ralen Randel
Staff Auditor	Anne Kelbley

Special Investigations Division

Special Investigations Director	Melissa Santistevan, CPA, CFE, CGMA, CICA
Audit Supervisor	Chelsea Martin, CPA, CFE, CRFAC, CICA
Audit Supervisor	Hamish Thomson, CPA/CFF, CFE
Senior Auditor	Cindy Padilla
Staff Auditor	Brendan Miller
Staff Auditor	Guadalupe Jaramillo

Administrative

IT Director	Arthur Baca
Budget & Finance Director	Laura Montoya
Human Resources Manager	Lori Johnson
Contracts Administrator	Frank Valdez
Records Custodian	Bernadet Martinez
Executive Administrative Secretary	Amanda Herrera
Administrative Assistant	Jason Chavez

EXECUTIVE SUMMARY

"The office of the state auditor was created and exists for the basic purpose of having a completely independent representative of the people, accountable to no one else, with the power, duty and authority to examine and pass upon the activities of state officers and agencies who, by law, receive and expend public moneys."

New Mexico Supreme Court, 1968

New Mexicans play a critical role in holding their government accountable. State Auditor Wayne Johnson's goal is to provide the citizens of this state with transparent and understandable information about the use of taxpayer dollars in New Mexico, as well as a compilation of possible solutions.

Auditor Johnson's driving principle is that transparency gives New Mexicans better and more efficient government. That's why he believes the state auditor is the state's Chief Transparency Officer, independently elected to review how our governmental entities operate and spend public dollars. The OSA plays a critical role, in concert with the New Mexico State Legislature, in keeping New Mexico on the path to stronger fiscal health and ensuring that taxpayer dollars go where they are intended.

This report addresses Fiscal Year 2017 Findings for each audit conducted in the state of New Mexico for every government entity statewide. Fiscal Year 2017 began on July 1, 2016, and ended on June 30, 2017, for most entities. It is the first report to feature an interactive statewide map of findings.

The annual audits not only provide important information regarding the financial health of governmental entities, but they highlight areas where corrective action is necessary to safeguard public tax dollars and bring the agency or entity into compliance with applicable laws, rules, and regulations. The annual audits provide an independent outside review of government finances and financial practices. They are intended to be a tool to help honest administrators and policymakers improve their financial practices. They are also designed to identify dishonest practices and theft or waste of public dollars. Comprehensive annual audits are intended to provide a roadmap to best practices for state agencies and local governments. Entities are designated for special audits when the OSA receives allegations of waste, fraud, or abuse that warrant immediate review and audit.

This report contains an overview analysis of findings to identify systemic problems that exist across multiple types of entities. The recommendations contained in this report are based on the causes found and recommendations in the individual annual audit reports made by independent public accountants (IPAs), as well as recommendations from the Office of the State Auditor staff. These recommendations are intended to provide insight for legislators, policymakers, oversight agencies, and New Mexicans so that solutions to chronic and prevalent issues, particularly those findings that are repeated year after year, can be developed and implemented by the Legislature or oversight agencies.

Overview

The Office of the State Auditor (OSA) was created by the Constitution of the State of New Mexico, Article V, Section 1, as adopted in 1912. The State Auditor is elected to a four-year term and can serve two consecutive terms in office.

The OSA conducts financial and compliance audits of agencies in accordance with governmental auditing, accounting and financial reporting standards, and local, state and federal laws, rules and regulations. The OSA may cause the financial affairs and transactions of an agency to be audited in whole or in part, in addition to the annual audit.

The financial affairs of every agency are required to 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 Public Accountants (IPAs) approved by the State Auditor.

The OSA is responsible for financial audits and agreed-upon procedures (AUPs) for almost 1,000 governmental entities. This report includes the audit reports of only the 474 entities that received full financial audits, most of which were conducted by independent public accountants (IPAs) under the oversight of the OSA. Some audits are conducted by the OSA directly, with the proceeds deposited into the statutory Audit Fund to partially fund the operations of the OSA. The OSA exercises a regulatory role over IPAs and reviews these reports to ensure an appropriate level of quality, but the opinions and findings expressed are based on the IPA's professional judgment.

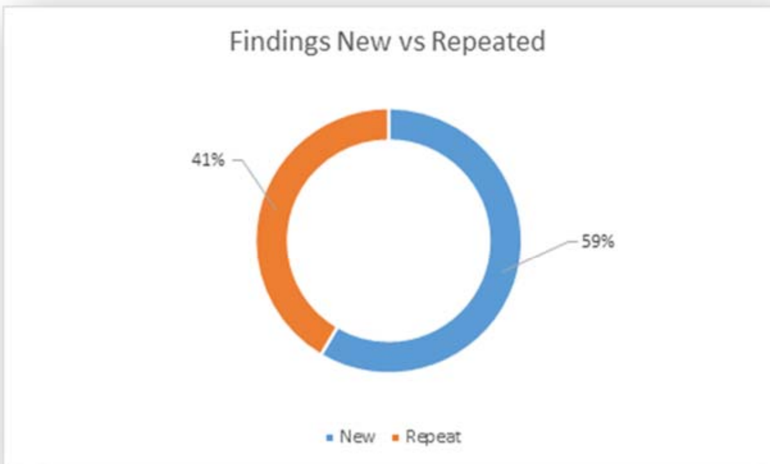
View or Download Audit Reports

You can view or download full copies of an entity's audit reports on the State Auditor's website. On the bottom right corner of the home page, www.saonm.org, you will find a search option for full audit reports.

You may also view the findings for every entity statewide on our findings map located on the website, which is currently under development. The OSA anticipates release of the map by early November 2018. Please click on the map to be redirected to the findings map.

FY 2017 Findings Overall

New Versus Repeat Findings

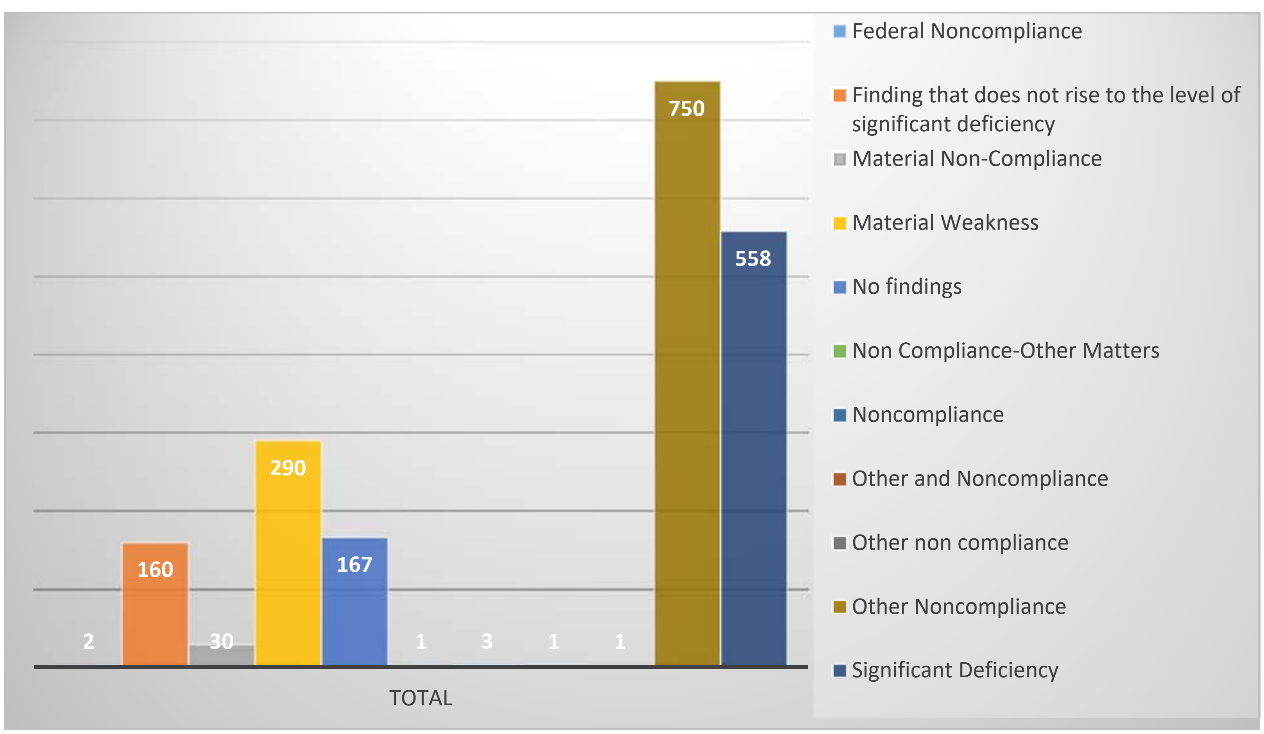


Repeated Findings are those findings that are not resolved from one fiscal year to the next by an entity.

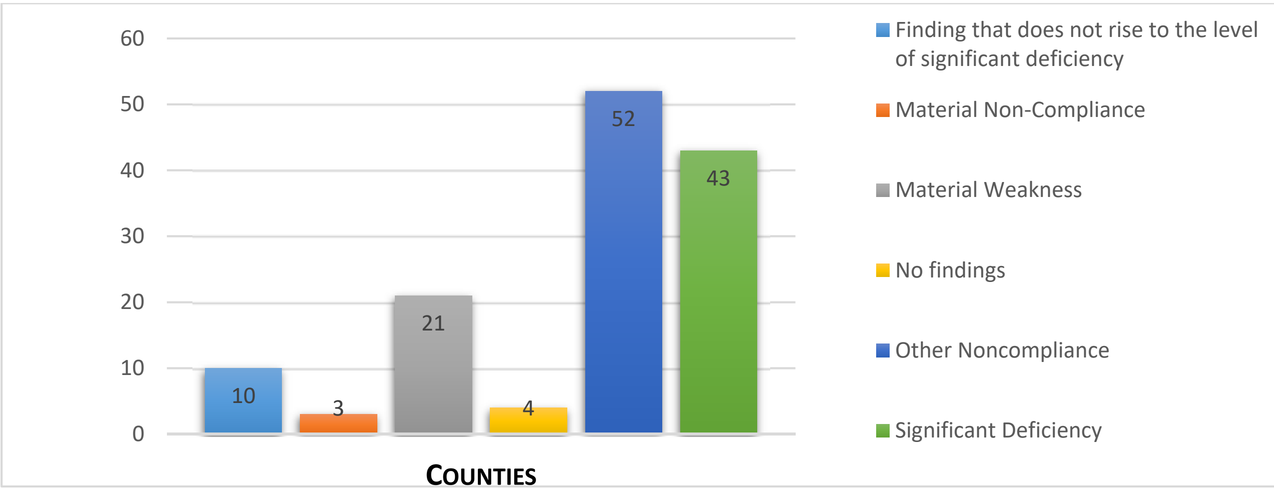
Forty-one percent (41%) of the overall findings were repeated from the prior year without resolution.

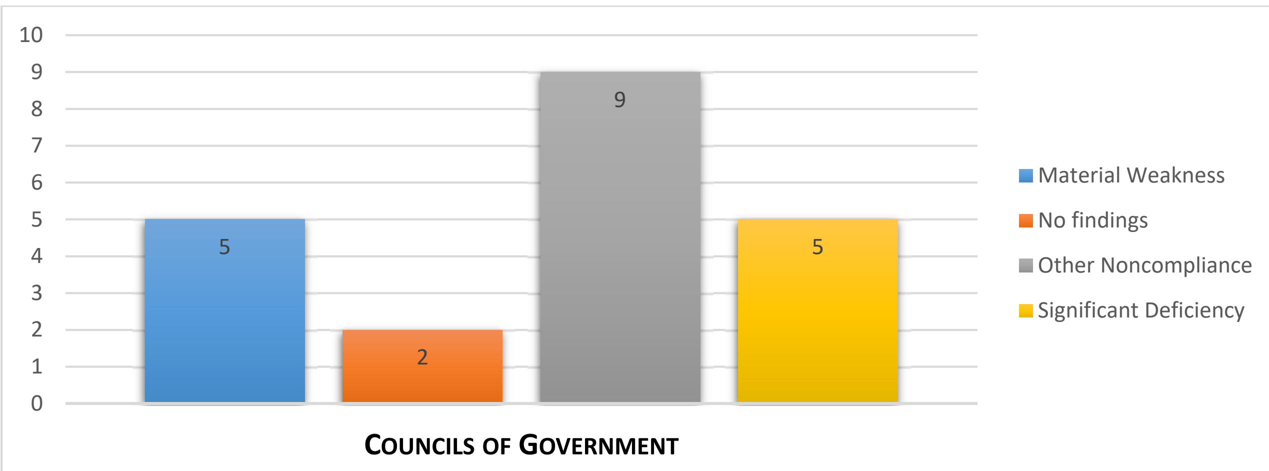
FINDINGS BY TYPE OF AGENCY

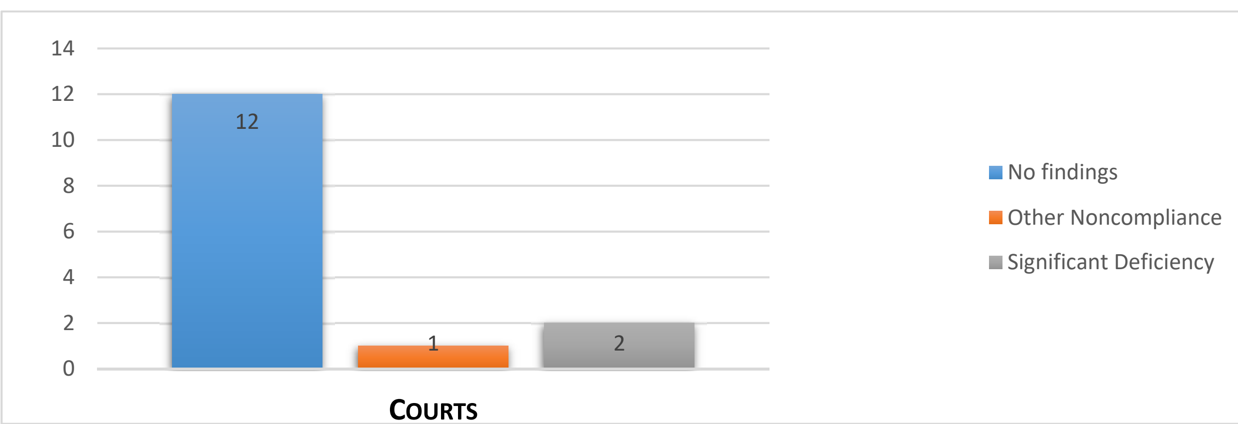
Total Findings – All Entities

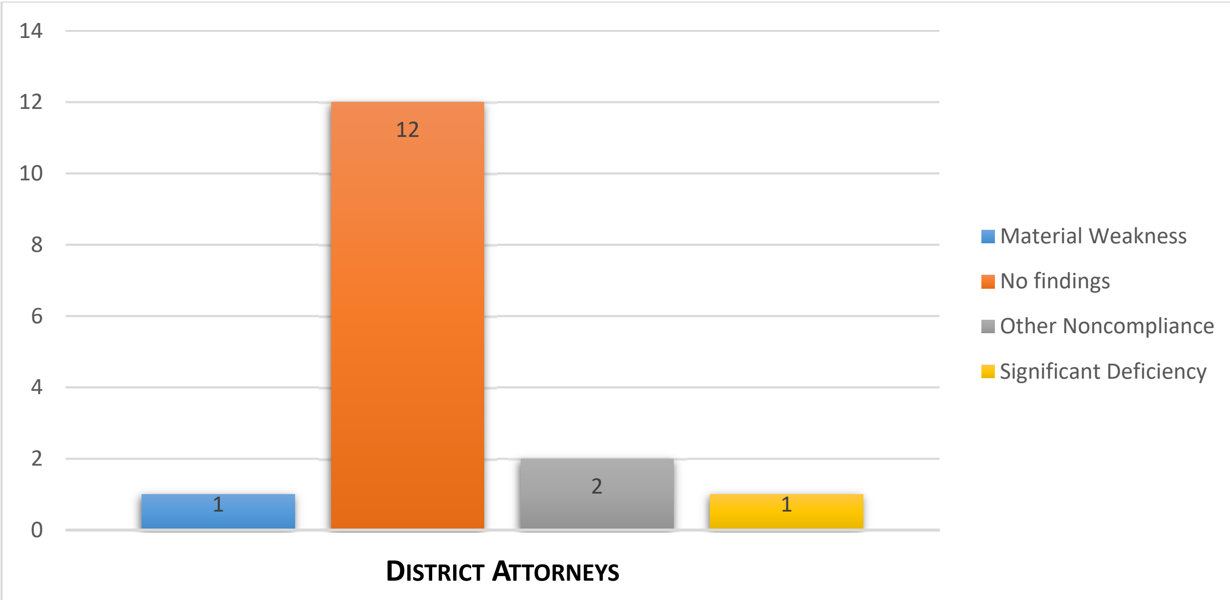


Findings by Type of Agency

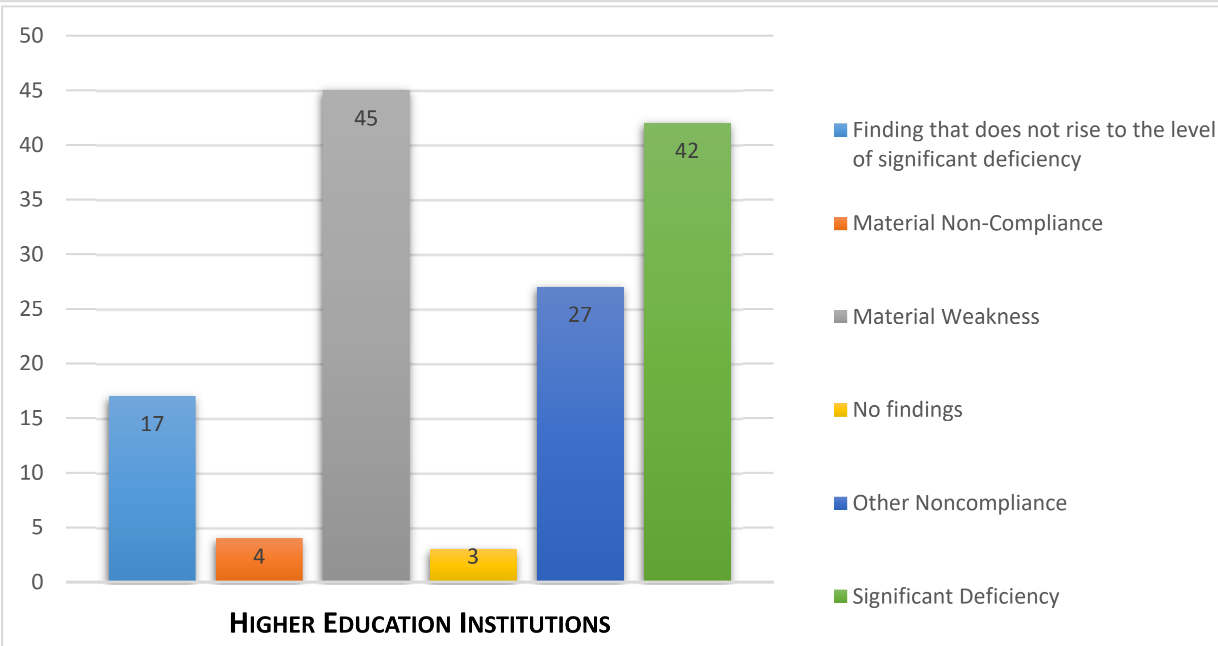




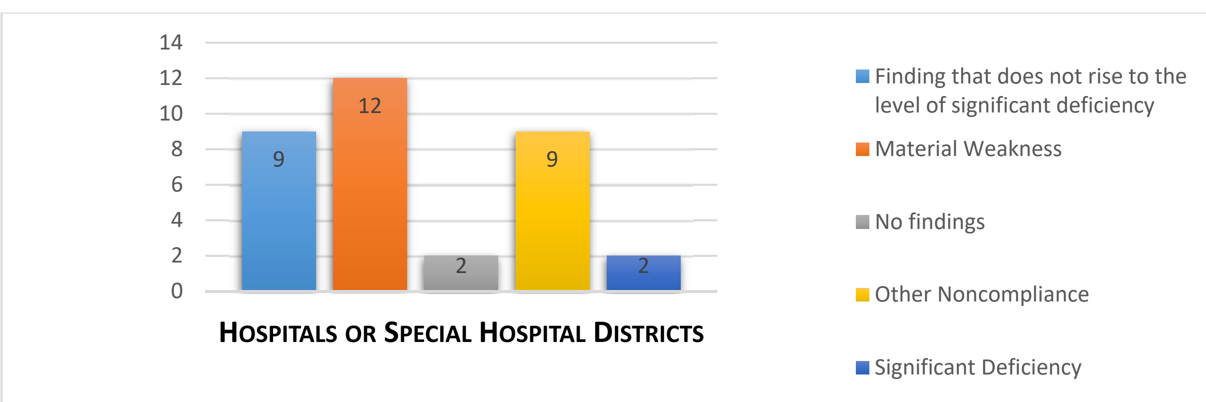




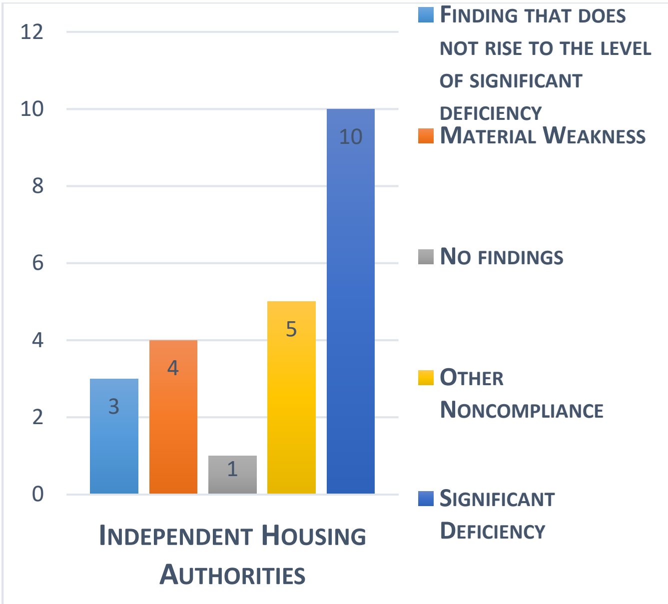
14
12
10
8
6
4
2
0
1
12
2
1
Material Weakness
No findings
Other Noncompliance
Significant Deficiency
DISTRICT ATTORNEYS

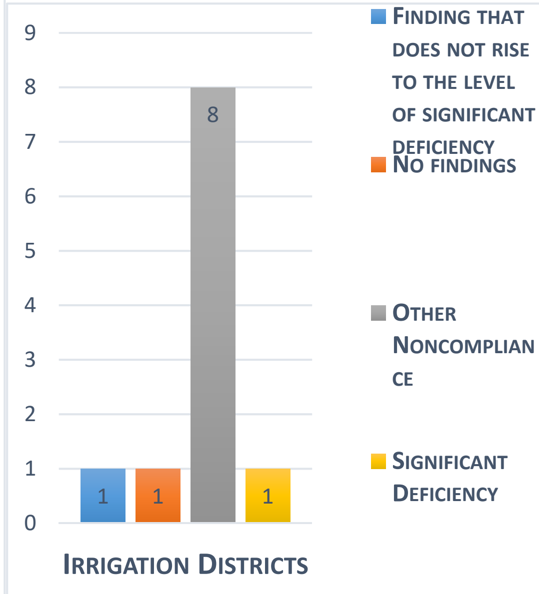


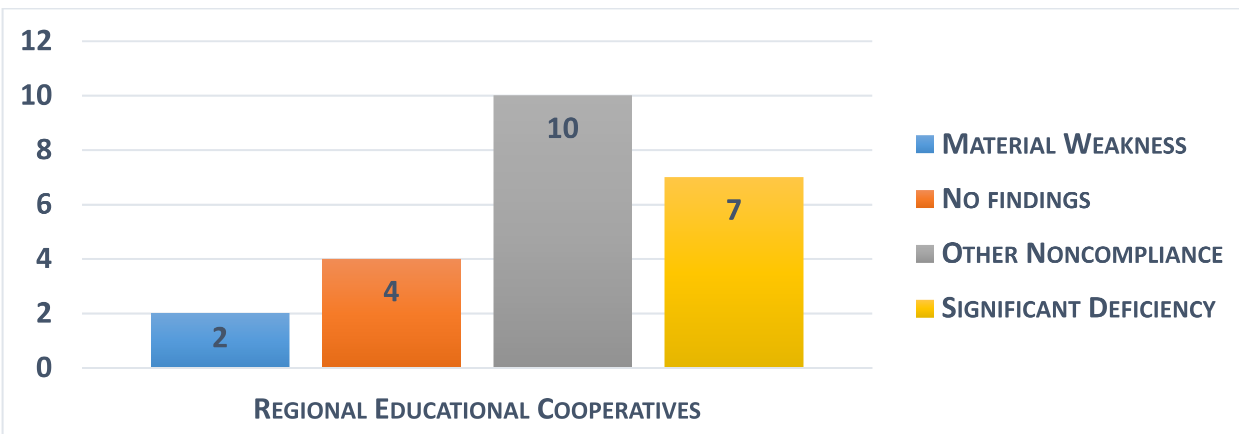
50
45
40
35
30
25
20
15
10
5
0
17
4
45
3
27
42
Finding that does not rise to the level of significant deficiency
Material Non-Compliance
Material Weakness
No findings
Other Noncompliance
Significant Deficiency
HIGHER EDUCATION INSTITUTIONS

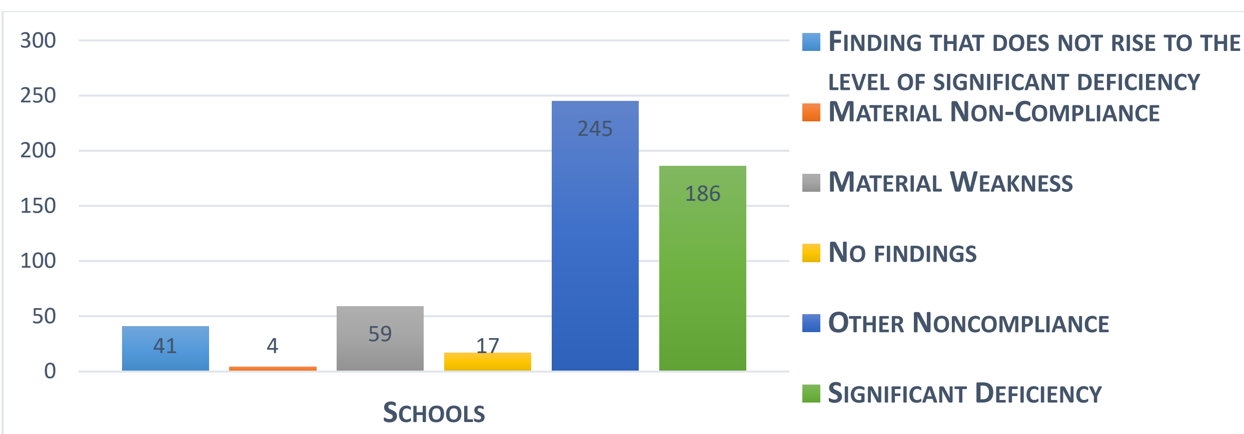


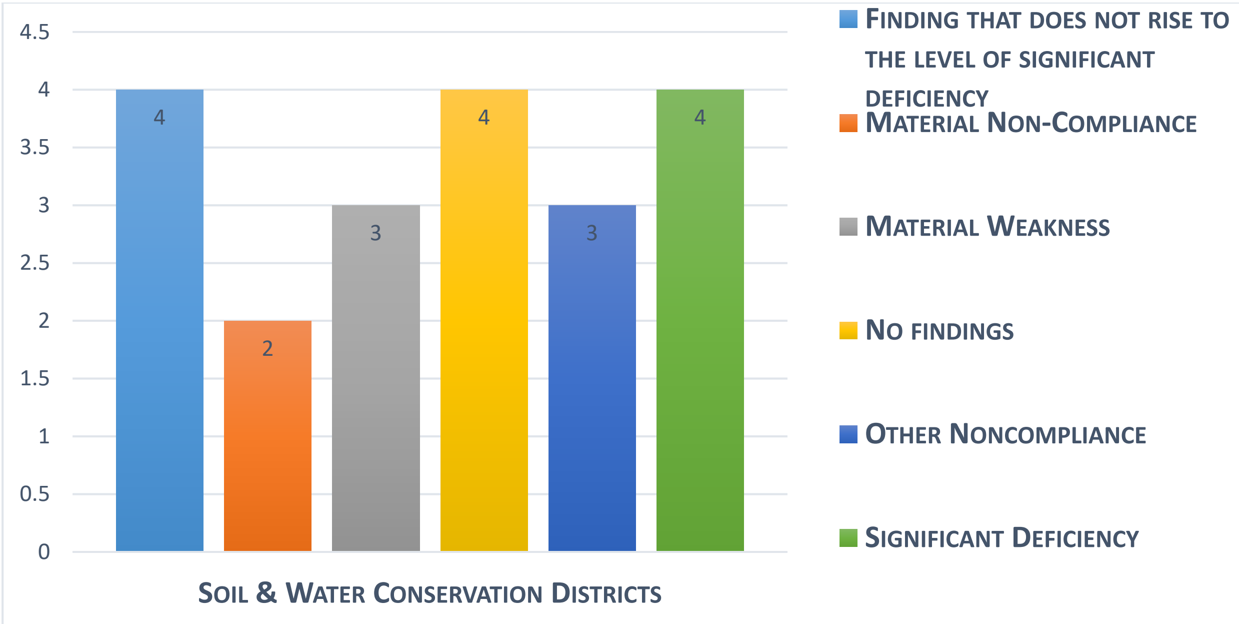
14
12
10
8
6
4
2
0
9
12
2
9
2
Finding that does not rise to the level of significant deficiency
Material Weakness
No findings
Other Noncompliance
Significant Deficiency
HOSPITALS OR SPECIAL HOSPITAL DISTRICTS


12
10
8
6
4
2
0
3
4
1
5
10
Independent Housing Authorities
Finding that does not rise to the level of significant deficiency
Material Weakness
No findings
Other Noncompliance
Significant Deficiency


9
8
7
6
5
4
3
2
1
0
1
1
8
1
Irrigation Districts
Finding that does not rise to the level of significant deficiency
No findings
Other Noncompliance
Significant Deficiency

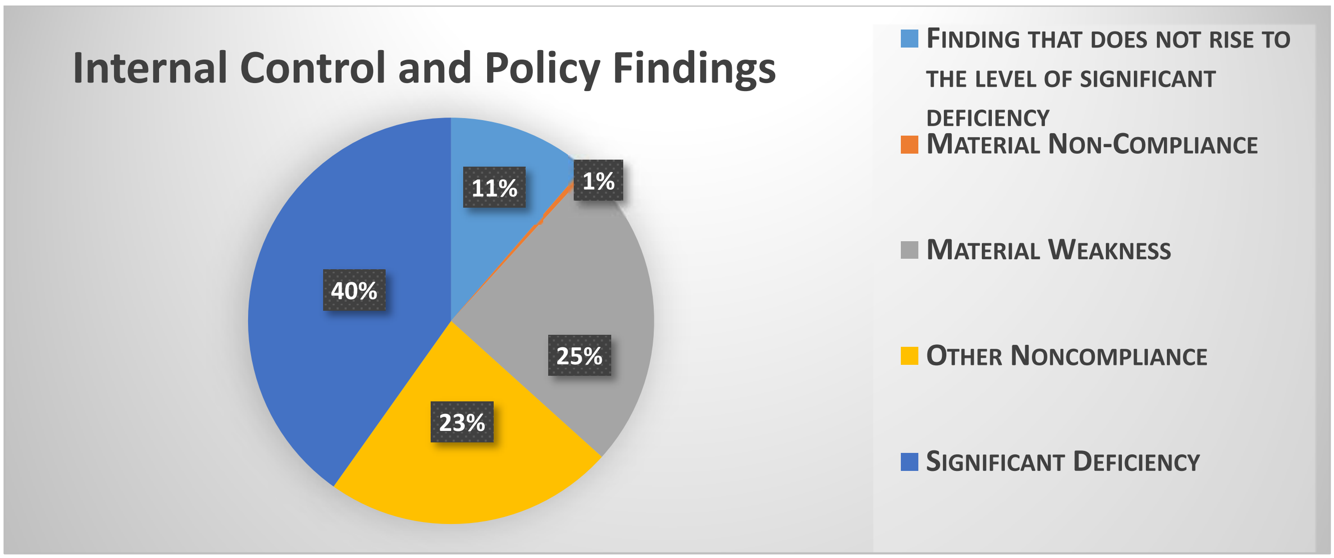

12
10
8
6
4
2
0
2
4
10
7
Regional Educational Cooperatives
Material Weakness
No findings
Other Noncompliance
Significant Deficiency


300
250
200
150
100
50
0
41
4
59
17
245
186
Schools
Finding that does not rise to the level of significant deficiency
Material Non-Compliance
Material Weakness
No findings
Other Noncompliance
Significant Deficiency


4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
4
2
3
4
3
4
Soil & Water Conservation Districts
Finding that does not rise to the level of significant deficiency
Material Non-Compliance
Material Weakness
No findings
Other Noncompliance
Significant Deficiency

Prevalent and Significant Findings Across the State and Recommendations for Consideration by Legislators, Policymakers and Oversight Agencies

Lack of Policies or Internal controls



An exception or deficiency in the governmental entity's policies and procedures such that the policies and procedures are not sufficient to create a proper internal control environment to ensure accountability and consistency in the financial reporting and compliance with applicable laws, regulations, contracts, and grant agreements.

Examples of Findings in 2017 Audit Reports:

The District lacked a purchase order for a total of $21,880 disbursements; lacked signatures of approval on $139,194 monthly payment vouchers; reimbursed mileage in excess of the GSA rate; and lacked approved purchase order for travel expenses.

During our test work over manual journal entries, we noted that for 8 out of 10 manual journal entries tested, for an amount of $224,034, the entries lacked proper approval by someone other than the preparer.

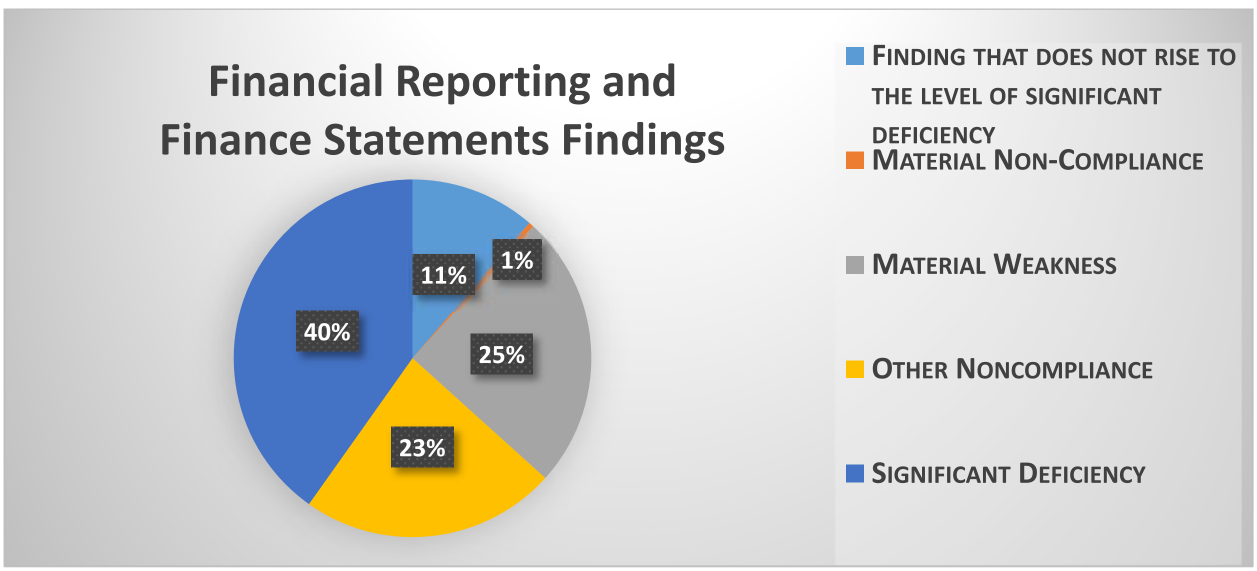
In a sample of five payments to administrators selected for testing, it was noted that the principal approved her own travel requests, the reimbursement invoices, and signed checks for the reimbursements.

During our cash receipt test work, we noted the schools did not have adequate controls in place surrounding the student activity fund cash receipts.

The District did not update their accounts receivable balance throughout the year and does not have policies and procedures in place surrounding the allowance for uncollectible accounts.

Recommendations:
The audit reports indicate that these types of findings may stem from both lack of training by finance personnel, as well as the unavailability of standard or model policies that can be adopted by governing boards of political subdivisions. Legislators, oversight agencies, and policymakers may want to consider requirements for model policies and internal controls for municipalities and smaller jurisdictions, as well as additional training opportunities for budget directors, village clerk/treasurers and finance officers from entities of all sizes in the state. The need for additional training and expertise among finance personnel at every level of government in New Mexico appears to be an issue for almost every type of finding identified in this report.

Financial Reporting



An exception or deficiency in the overall public spending carried out by the governmental entity, including expenditures in violation of a grant or other agreement, payment for goods or services prior to receipt, expenses not properly authorized, a lack of supporting documentation, and deficiencies related to purchase orders.

Examples of Findings:

The Department lacked procedures to ensure the activity and balances of all funds of the Department were reconciled on a monthly basis during the fiscal year. While we did note that *there was significant improvement during the year there were still certain auditor-identified adjustments required.*

The Department's schedule for the accounts receivable in the general fund has an unsupported variance compared to the trial balance in the amount of approximately $293,833. This is considered an uncorrected misstatement in the Department's financial statement

Management does not have internal controls in place to provide reasonable assurance that the combined financial statements are prepared in accordance with U.S. Generally Accepted Accounting Principles.

The charter school's cash report to PED did not agree to the general ledger. At year end the general ledger had a cash balance of $56,775, the PED cash report had a cash balance of $58,451, and the Bank Reconciliation had a balance of $72,333

An adjustment of $576,402 was required outside the normal audit adjustments and indicate an internal control deficiency in maintaining the general ledger.

The financial statements and related disclosures are not being prepared by the District.

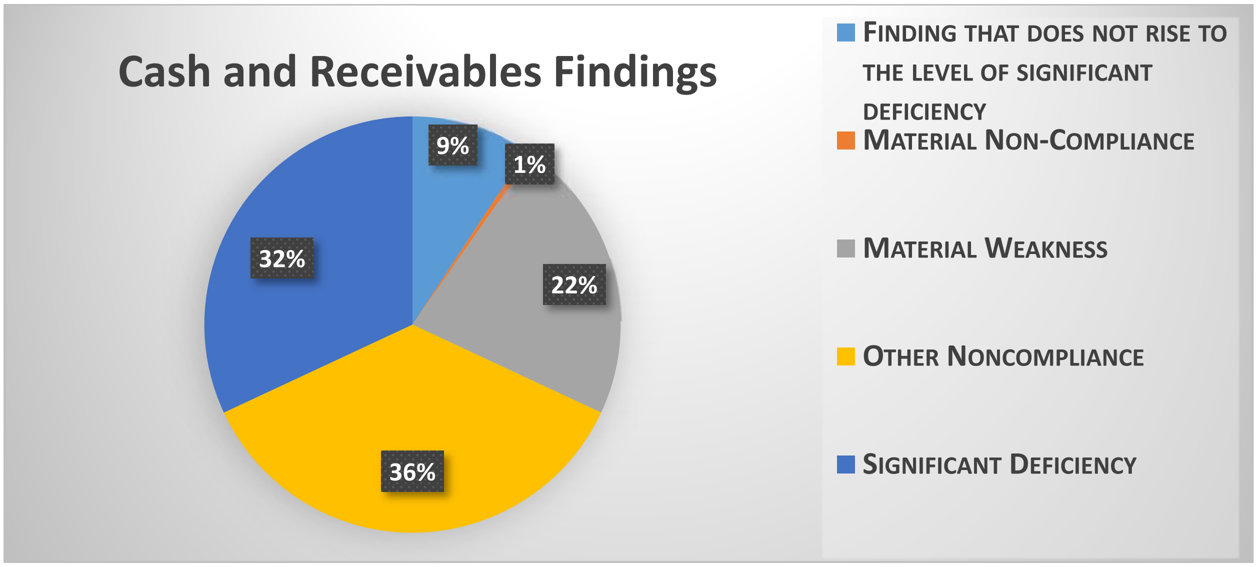
The County has had several areas where they are not reconciling the supporting documentation to the related account balances on a regular basis.

The County's trial balance of the general ledger provided for audit required material adjustments to cash, accounts receivable, accounts payable, accrued liabilities, capital assets, and fund balance/net position.

Several significant adjusting journal entries were required after 2017 fiscal year closing records were closed, County was unable to provide accurate detail to convert the budgetary basis of accounting to modified and full accrual for financial statements.

Recommendations: Audit reports indicate that these findings may stem in great measure from the lack of adequately trained financial personnel in governmental positions at all levels across the state. Legislators, policymakers, and oversight agencies may have a positive impact toward eliminating these types of findings through the implementation of additional training, and perhaps certification, opportunities for finance officers and finance personnel at all levels of state and local governments in New Mexico. The types of mistakes found in this category of finding place entities at significant risk of fraud, waste, and abuse of public funds.

Cash and Investments (Stale Checks; Reconciliation- 24 Hour Deposit Rule for Cash) and Revenue and Receivables



An exception or deficiency associated with the use of procurement cards and/or credit cards allowing the holder to purchase goods or services on government credit.

An exception or deficiency related to the revenue and/or funds received or to be received by the governmental entity.

Examples of Findings:

The Foundation's bank reconciliation and review was not done timely or thoroughly for part of the fiscal year. Certain Foundation checks were deposited into College's account and corrected several months later.

Gross receipts tax rate charged to customers incorrect. 6.75% was being charged, 5% is the correct rate.

County did not record receivables for Gross Receipts, Motor Vehicle, Gasoline, and Fire Excise taxes. Total amount of revenue earned as of June 30, 2017, was $167,804.

The County could not provide supporting documents of "Gross Receipt Taxes" totaling $389,993 and the County was unable to provide an accounts receivable aging schedule. That's why the amount of accounts receivable is not known.

Security deposits are not being reconciled between the Utility and Accounting software systems.

Utility under billing from utility billing software.

Lack of adequate supporting documentation per NMSA 1978, Section 6-5-2.

Unreconciled water variances.

Utility billing rates are not being applied correctly. Additionally, there was a billing adjustment to make a customer account reduce to $0.00.

The Town's pooled cash system has not been reconciled to cash by fund, causing variances.

The City did not properly account for classification of the cash allocated amongst the individual funds from the pooled cash balances.

The City did not properly accrue gross receipt taxes, motor vehicle, gas and other receivables totaling $744,100.

"Best practices as established pursuant to 2.20.5.8 (10) NMAC, require that all reporting of financial information must be timely, complete and accurate, to management and to oversight agencies and entities. The former City Treasurer was not maintaining the cash accounts properly or in a timely manner. Auditors were unable to obtain sufficient audit evidence in this area, the auditor's opinion on the financial statements will be modified over cash balances."

Recommendations: Audit reports indicate that many of these findings stem from the same lack of training and expertise identified and discussed above. Again, the OSA notes that these findings may be alleviated by additional training and certification opportunities for finance personnel at all levels of governmental entities in New Mexico.

Related to this Finding, Auditors Have Questioned Whether the "24-Hour Deposit Rule" under Section 6-10-3 NMSA 1978 applied to Political Subdivisions.

The Public Money Act, Section 6-10-3 NMSA 1978 provides:

> "[I]t is the duty of every official or person in charge of any state agency receiving any money in cash or by check, draft or otherwise for or on behalf of the state or any agency thereof from any source, except as in Section 6-10-54 NMSA 1978 provided, to forthwith and before the close of the next succeeding business day after the receipt of the money to deliver or remit it to the state treasurer…"

This statute has historically been interpreted to include all entities in the state who receive public funds. Other sections of the Public Money Act clearly apply to all public entities, including counties, cities, towns, villages, and schools.

While schools have adopted the 24-Hour deposit provision of the Public Money Act by administrative rule, NMAC § 6.20.2.14, questions have been raised by independent public accountants (IPAs) and attorneys representing smaller entities regarding whether Section 6-10-3 applies to them.

With regard to Findings for failure to deposit cash and checks within 24 hours of receipt, it is the position of the OSA, consistent with the historical view of the statute by previous administrations, that all entities in New Mexico who receive public funds are subject to this provision. State Auditor Johnson maintains that this requirement serves as an important internal control to prevent theft and fraud for entities of all sizes.

Examples of Findings Related to the 24-Hour Rule:

"During our test work over activity cash receipts we noted four (4) exceptions. These exceptions were due to deposits not being made timely, within 24 hours. This resulted in an error rate of 10 percent. When projected across the total population of activity receipts, it is projected that there could be as many as 45 errors.

During our test work over operational cash receipts we noted two (2) exceptions. These exceptions were due to the deposits not being made timely, within 24 hours. This resulted in an error rate of 1.3 percent. When projected over the total populations of cash receipts, it is projected that there could be as many as 14 errors.

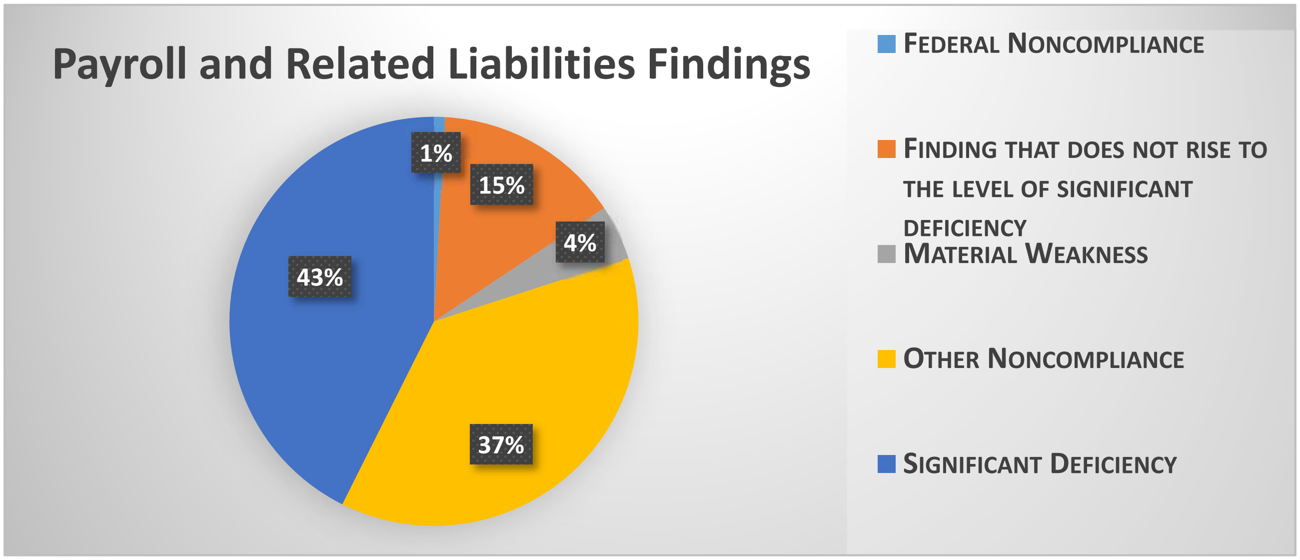
During our test work over the receipting process, we noted that in the money was not deposited in the bank within 24 hours of receipt, proper supporting documents were not maintained and does not have proper segregation of duties.

No receipts were issued for activity receipts, cash receipt was recorded as a negative expense, cash and checks were sitting in a bank bag for 6 months before depositing

Recommendations: The OSA recommends that policymakers clarify the state law with regard to whether political subdivisions, other than state agencies and school districts, are required to make cash deposits within 24 hours. It is the opinion of the auditors at the OSA that failure to make cash deposits within 24 hours represents an opportunity for fraud, waste, and abuse of public funds, and recommends that the statute be applied to all governmental entities of the state of New Mexico. Additionally, policymakers may wish to consider additional oversight measures with regard to cash received by schools in student activity funds.

Payroll and Related Liabilities

\



An exception or deficiency associated with amounts owed for payroll related expenditures that are not yet paid, creating a liability or any violation of federal, state, or local requirements regarding employment, required forms, or payroll reporting.

Examples of These Types of Findings:

Out of fifteen I-9s sampled, seven I-9's were incomplete, used expired forms, or had corrections made without the initials of the person changing the form.

Wages reported to Workforce Solutions were less than wages in the general ledger by $69,123.29.

During our payroll test work, we noted a penalty payment to the IRS for a failure to make a proper tax deposit.

During our review of the required payroll reports, we noted that the 941 payroll report for the quarter ending June 30, 2017, was filed on October 05, 2017. The report was due by July 31, 2017.

4 employees' files were missing I-9's, 8 I-9's were not signed by District, 1 missing teacher certificate, 1 missing background check and one timesheet not signed by supervisor

1 W-4 could not be located, 30 I-9's incorrectly or incomplete.

When testing payroll that was submitted to ERB and RHCA, we estimate $337,557 dollars were paid to employees that should have been paying into ERB and RHCA. The amount owed to ERB and RHCA based on this estimate is $69,346 and $10,127 respectfully.

Thirteen of thirteen I-9s sampled were incomplete or incorrectly completed.

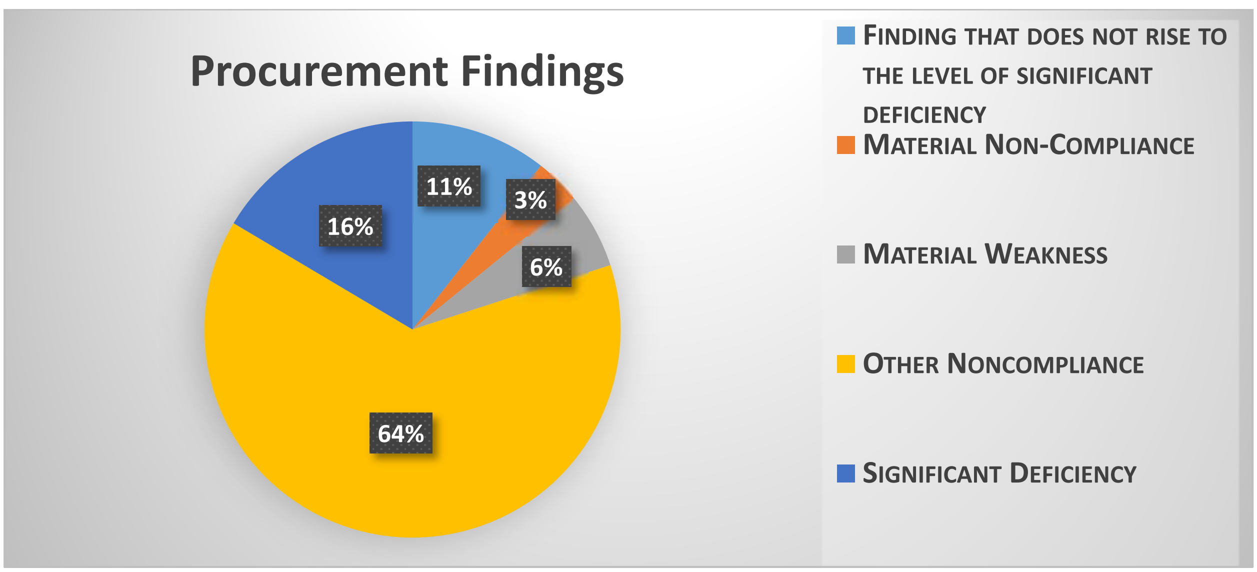
Out of 15 personnel files sampled we noted 5 I-9's were incorrectly completed or incomplete and 1 did not have a background check. Of the 21 new hires, 5 were sampled and all 5 were not submitted timely.

Superintendent is not signing off on payroll reports. Business manager has authority to create new employee, generate a contract, and process payroll w/o any oversight

Recommendation: Audit reports again indicate that these finding may be caused by lack of training and expertise, particularly at the local government level and among school districts. Oversight agencies may wish to consider additional internal controls by adopting procedures to ensure that entities, particularly school districts and those serving vulnerable populations, where background checks are required, maintain full and adequate payroll and employment records by verifying that those records are complete on a timely and contemporaneous basis. Improper reporting of payroll liabilities is another issue among local governments that may be alleviated by additional training for finance personnel.

Violations of other State Laws

Procurement Code



Any violation of applicable laws, rules, and regulations governing the procurement of goods and services with public funds.

The Procurement Code applies to the state, counties, cities, towns, villages, and schools (NMSA 1978 §13-1-30) when they expend money to purchase "tangible personal property" (automobiles and equipment for example); services (architectural, legal, planning, economic development, for example) and construction (building roads, utilities, and structures, for example).

Examples of Findings:

Lack of proper amended price agreement in place once initial contract ended which caused a statutory budgetary violation.

Non-compliance with the procurement code, including lack of documentation of obtaining 3 quotes, contractors performing services beyond contract date, and a contract outside of the state procurement system running since 1991.

Vendors paid without fulfilling contractually required performance measures.

PCF vendor paid without fulfilling contractually required performance measures.

The School purchased computer equipment and software but did not obtain quotes. One disbursement was made without the establishment of a purchase order.

The School did not have a chief procurement officer for a majority of the fiscal year. Twenty-two disbursements did not have a purchase order approving the disbursement. An employee reimbursement lacked support for the total reimbursement.

The College failed to follow procurement code on nine contracts.

The Foundation's investment manager (originally procured in calendar year 2014) has not had an annual contract renewal or has the procurement been rebid as of March 2018.

Two purchases were made through CES and GSA contracts without copies of those agreements to support the due diligence performed. Prepayments to vendors were made.

The association did not follow the procurement code when procuring construction services.

The Association does not have a certified procurement officer registered with the State Purchasing Division.

Suspended/Debarment Certification.

Internal Controls Over Purchase Cards.

Lack of adequate bid documentation.

Four (4) vendors where payment for services were more than $60,000 for the fiscal year 2015-2016.

Lack of bid documentation.

There were two contracts with JDLR & Associates, LLC, Consultants provided separately which individually are under $60,000, however in substance they are one project exceeding $60,000 threshold by $20,000. Border crossing consulting projects were not procured by RFP process as required by the New Mexico State procurement code. Council approval was noted.

Purchase orders were not created in many instances, vendor invoices were not kept, no receiving documentation for several items and in some instances no documentation at all existed.

Lack of Bid Documentation- School district went to bid once during the year, bid was not awarded, no bid documents were retained for review.

Fund 11000-6 after fact PO's, 1 had no supporting documents. Fund 13000-1 had no supporting documents.

During test work over cash disbursements we noted thirty-six (36) exceptions out of the sample population of two hundred and ninety-three (293) which resulted in an error rate of 13%. It appears that these exceptions were a result of lacking of supporting documentation. When projected over the total amount of expenditures for the fiscal year under audit, this results in an error of $759,470.92.

Recommendations:
Need for increased knowledge and expertise regarding procurement regulations: Findings related to failure to designate a Chief Procurement Officer, as required by the Procurement Code is indicative of a lack of training and expertise among agencies and local governments with regard to procurement. Policymakers and oversight agencies may wish to provide additional training opportunities specifically related to procurement.

The Procurement Process: The LFC has previously recommended consolidation of DFA's Contract Review Bureau (CRB) and the State Purchasing Division (SPD). Currently, the CRB reviews professional services contracts only, and the review does not include a review of compliance with the Procurement Code. The DFA review appears to be focused more on form and legal sufficiency, not procurement compliance. As a result, there appears to be a lack of review of public contracts for procurement compliance during the procurement and contracting process. Review for compliance with procurement regulations is conducted by the IPA during the audit process, which may occur well after the procurement process. Policymakers and oversight agencies may wish to consider additional procurement oversight during the procurement process.

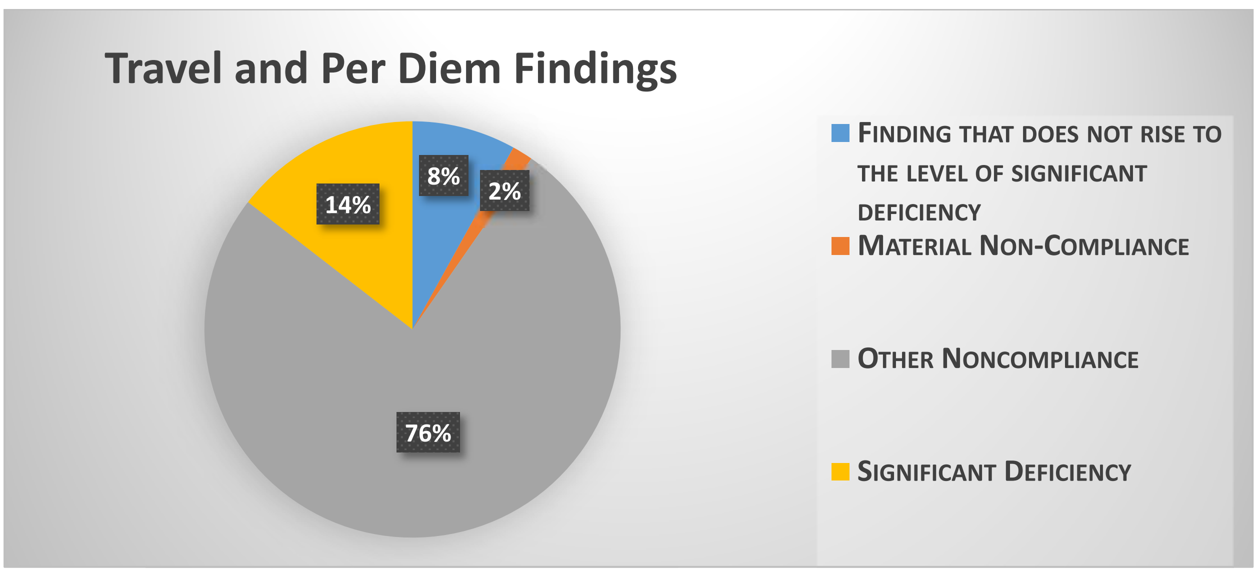
In addition, DFA has a unique number system, and SPD has its own number system. Auditors have recommended that consistent numbering between the two oversight agencies would allow procurements to be tracked from start to finish, allowing for greater transparency and accountability.

In some entities, designated chief procurement officers may be bypassed by appointed or elected public officials or boards. Centralization of the procurement process and/or additional oversight during the procurement process may mitigate risks associated with officials overriding procurement controls.

Transparency-Sole Source and Emergency Procurements: The Procurement Code does not currently require all government entities to post sole source procurements to the SPD's website. Adding that requirement would increase transparency and accountability and allow the public to view all state sole source procurements in one location. Requiring posting of emergency procurements in the same manner would also increase transparency and accountability.

Exemptions from the Procurement Code-
Under current law, home rule municipalities are not subject to the Procurement Code if they have adopted their own procurement policies. This has led to a variety of procurement provisions in those home rule jurisdictions, which can lead to conflicts with other state statutes. There are also procurement exemptions for charter schools, and university and college foundations. Additionally, while the Procurement Code itself is applicable to local public bodies, the administrative rules do not appear to extend to all such entities. These exemptions have led to a variety of procurement practices that may not all meet the underlying objectives of the Procurement Code.

Per Diem and Mileage Act



The Per Diem and Mileage Act, §10-8-1 et seq. was adopted by the legislature to "establish rates for reimbursement for travel for public officers and employees coming under the Per Diem and Mileage Act." (§ 10-8-2 NMSA 1978). Additionally, the Department of Finance and Administration (DFA) has published an administrative rule to further define the provisions of the Act.

Under the Act, "public officer" or "public official" means every elected or appointed officer of the state, local public body, or any public post-secondary educational institution. "Public officer" includes members of advisory boards appointed by any state agency, local public body or public post-secondary educational institution.

Examples of Findings:

"During our testing of travel and per diem disbursements, we noted two instances in which proper notification was not sent to the department head for accumulated travel in excess of $1,500."

Management oversight, lack of effective internal controls surrounding the preparation of the indigent care cost and funding reports and calculations of cost of providing indigent care worksheets.

The Department is not following AD 902 procedures related to the $1,500 rule over employees who are not considered "transient employees".

During our test work, we noted one instance totaling $1,020 where there was no supporting documentation available to determine if the amount paid for travel was correct.

During our test work of disbursements made to administrators, we noted one instance error [for] which the Charter reimbursed an employee $11.62 for meals without supporting documentation. One travel reimbursement had a reimbursement for alcohol. Total reimbursement was $137 and the alcohol purchase was $7.

We noted three of six mileage reimbursements did not include support for mileage traveled, one instance where purchase order was generated prior to travel request approval, two instances when the Executive Director approved her own reimbursement.

During our testing of travel and per diem disbursements, we noted the following: the school reimbursed an employee for meals twice resulting in an overpayment and other school reimbursed a board member for mileage using the incorrect rate.

One out of two employees with travel expenditures of more than $1,500 in a calendar year did not obtain authorization for reimbursement.

The Foundation violated the Mileage and Per Diem Act by paying over the allowed per night rate for lodging with no supporting documentation showing approval of actuals. Also, the Foundation over-reimbursed for mileage and miscellaneous expenses.

The School is not in compliance with the Mileage and Per Diem Act which establishes the reimbursement of mileage and requires Rand McNally data for mileage reimbursement.

The County has adopted a mileage reimbursement rate of 80% of the internal revenue service standard rate set January 1 of the previous year for each mile traveled in a privately-owned vehicle. Three out of eight travel and per diem transactions tested were reimbursed at the full *internal revenue service rate. Additionally, one travel request form was not approved by the County Manager in accordance with the County's policies.*

We noted that for some samples, the County could not provide any supporting documentation, authorization requests were not issued and approved, amount for per diem was incorrect, and out of state travel approval in the meeting minutes were missing.

Several discrepancies: lack of employee and or supervisor and or management signature on travel form; partial day per diem miscalculated; mileage was miscalculated; overpayments not returned to Village timely.

Lack of documentation, incorrect amounts paid on invoices, along with not properly following DFA Rule 95-1.

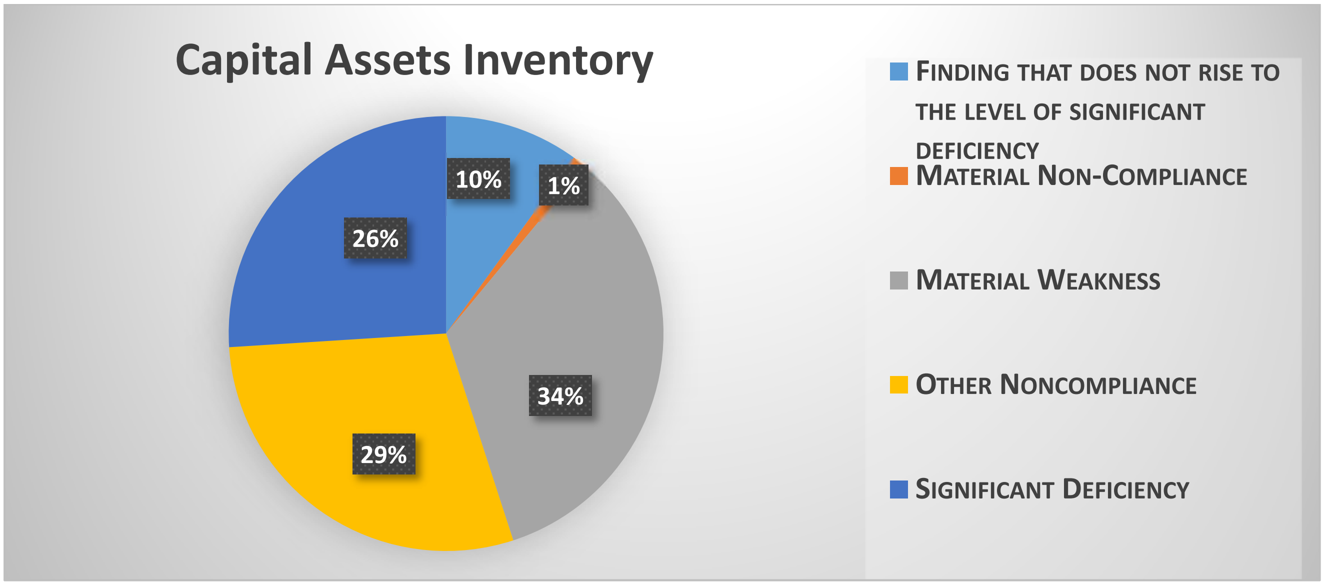
An employee used the school vehicle for personal use.

During our test work of travel and per diem, we tested forty-one (41) transactions; we noted a total of sixteen (16) exceptions that either had no supporting documentation or were non-compliant with DFA Rule 95-1. The total dollar amount of the (16) sixteen exceptions was $7,863.02; however, $2,188.36 was the amount in error related to approval by the Executive Director for reimbursement to attendees for conferences. There was limited progress made as the agency did implement the use of mileage logs but still need to provide training for staff on maintaining adequate supporting documentation.

Recommendations: The OSA notes that elected and appointed officials in New Mexico often serve with little or no compensation. These same elected and appointed officials are entitled to receive proper statutory reimbursements for mileage and per diem for out of town travel on behalf of the government entities they represent. In many cases, governing boards are in a position to approve their own mileage and per diem reimbursements, or are in supervisory position over those employees who handle the same. This type of situation can result in a lack of internal controls from an accounting perspective, and creates a potential for waste, fraud and abuse of taxpayer dollars.

Policymakers and oversight agencies may wish to consider stronger internal controls with regard to the Per Diem and Mileage Act and the DFA administrative rule. Additionally, a legal question has been presented in the context of the special audit of the Regional Coalition of LANL Communities (RCLC) as to whether a contractor who is employed by an entity is subject to the provisions and limitations of the Per Diem and Mileage Act. Auditors have questioned whether a public entity may enter into a contract to pay mileage and per diem at rates that exceed the rates set forth in the Act. Further, auditors and legal staff have questioned whether an entity may enter into a contract to provide reimbursements to a contractor for expenditures made on behalf of elected officials and employees, such as meals and travel. It is the position of the OSA that these types of reimbursements likely violate both the letter and the spirit of the Per Diem and Mileage Act.

Capital Assets Inventory– Audit Act



The Audit Act, § 12-6-10, provides that all entities must maintain an annual inventory of their equipment and property valued at over $5000. This operates to prevent the theft and loss of public property.

The statute provides:

> A. The governing authority of each agency shall, at the end of each fiscal year, conduct a physical inventory of movable chattels and equipment costing more than five thousand dollars ($5,000) and under the control of the governing authority. This inventory shall include all movable chattels and equipment procured through the capital program fund under Section 15-3B-16 NMSA 1978, which are assigned to the agency designated by the director of the facilities management division of the general services department as the user agency. The inventory shall list the chattels and equipment and the date and cost of acquisition. No agency shall be required to list any item costing five thousand dollars ($5,000) or less. Upon completion, the inventory shall be certified by the governing authority as to correctness. Each agency shall maintain one copy in its files. At the time of the annual audit, the state auditor shall ascertain the correctness of the inventory by generally accepted auditing procedures.

Examples of Findings:

During our testing of capital assets, we discovered several formula errors in the District Court's calculation of accumulated depreciation that occurred in prior years, causing a restatement of capital assets in SHARE Funds 14700 ($61,806) and 52200 ($1,704).

Failure to capitalize professional fees related to construction in process.

Lack of proper monitoring over capital assets.

Installation of Equipment not capitalized.

Annual inventory of capital assets not conducted.

Five instances of noncompliance with internal controls over disposal of capital assets and state statute.

Annual capital asset inventory was not certified by the Governing Council.

The school disposed of all its computers during the closure process. The state auditor was not notified at least 30 days in advance. No support for method of disposition.

The County is maintaining a capital assets listing, however, the capital asset inventory system was not reconciled the beginning balances per the prior year financial statements. The prior year end did not agree with current year beginning capital asset listing.

County has recorded capital assets for hospital operations. The hospital is a component unit of the county. The hospital also recorded the same capital assets on their financial statements.

An inventory of capital assets was not performed during fiscal year 2017. The inventory listing is not maintained. Additions and disposals are not recorded. During our test work, we noted that the Village's capital asset records did not include any additions in the current year.

City did not conduct the inventory until months after year-end. In addition, we noted that certain capital assets were disposed of during the year without proper notification to the state auditor.

In FY13 a site plan was conducted related to expected CIP. Site plan as I.D. as CIP, however, construction never occurred & site plan deemed to have no value. Assets not properly removed from FA listing.

Vehicles being sold without proper transfer of title.

No Policy set by the Board for staff to follow in connection with depreciation.

Recommendations: Given the issues associated with failure to maintain annual inventories of public assets, policymakers and oversight agencies may wish to consider the implementation of additional controls to ensure compliance, as well as provide additional training opportunities for entities of all sizes to ensure compliance.

Other Issues for Legislative Consideration

The Audit Act and Jurisdiction of the Office of the State Auditor

The Audit Act defines the entities that are subject to its provisions. It defines an "agency" as:

> 1) any department, institution, board, bureau, court, commission, district or committee of the government of the state, including district courts, magistrate or metropolitan courts, district attorneys and charitable institutions for which appropriations are made by the legislature;
>
> (2) any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; municipalities; drainage, conservancy, irrigation or other special districts; and school districts;
>
> (3) any entity or instrumentality of the state specifically provided for by law, including the New Mexico finance authority, the New Mexico mortgage finance authority and the New Mexico lottery authority; and
>
> (4) every office or officer of any entity listed in Paragraphs (1) through (3) of this subsection;

Joint Powers Agreements Act

In 2018, the OSA has encountered issues with entities that have been formed under the Joint Powers Agreement Act, §§ 11-1-1 et seq. NMSA 1978. Under Section 11-1-5(B) "[T]he administering agency under any such agreement shall be considered under the provisions of this Joint Powers Agreements Act as an entity separate from the parties to such agreement."

As a separate entity formed under the Joint Powers Agreements Act, these types of entities are either special districts under subsection (2) or an entity or instrumentality of the state under subsection (3), and they are subject to the annual audit requirements of the Audit Act.

Both the Regional Coalition of LANL Communities (RCLC) and the RediNet Board were entities formed by joint powers agreements (JPAs) that did not conduct annual audits under the requirements for special districts from the time of their formation until 2017 or 2018.

In the case of RCLC, the County of Los Alamos acted as fiscal agent, and any audit information was associated with the County's audit. In the case of the RediNet Broadband project, the fiscal agent was the North Central New Mexico Economic Development District (NCNMEDD), and the broadband project was audited as a federal fund in the NCNMEDD annual audit. Both entities should have been treated as special districts and audited as stand-alone entities in compliance with the requirements of the Audit Act.

For both of those entities, stand-alone annual audits would likely have revealed the issues that were found in those special audits, which are described in greater detail below in the section titled "Special Audits."

Recommendations: The current state auditor, as well as previous state auditors, has opined that entities formed by a joint powers agreement are treated as "special districts" under the Audit Act. However, the fact that there is no language in the Joint Powers Agreements Act itself may lead entities and elected officials to believe that JPA entities are not subject to the Audit Act. Legislators may wish to consider amending the Joint Powers Agreement Act to expressly ensure that those entities begin receiving annual audits from the time of their creation and approval by the DFA.

State Auditor Johnson is actively working to identify these types of entities and ensure that they are in compliance with the annual audit requirement.

The New Mexico Medical Insurance Pool (High-Risk Pool)

As of the date of this Report, the New Medical Insurance Pool (NMMIP), otherwise known as the "high-risk pool," has initiated litigation against the OSA, seeking a declaratory judgment as to whether the NMMIP is subject to the Audit Act.

The NMMIP is formed under NMSA 1978, §§ 59A-54-1 et seq. Section 59A-54-4(A) provides:

> There is created a nonprofit entity to be known as the "New Mexico medical insurance pool". All insurers shall organize and remain members of the pool as a condition of their authority to transact insurance business in this state. The board is a governmental entity for purposes of the Tort Claims Act [41-4-1 NMSA 1978].

The Act also provides that the NMMIP will have annual audits and will provide those to the Superintendent of Insurance.

It is the position of the OSA in the lawsuit filed by NMMIP that the Pool is subject to the Audit Act for a number of reasons. It serves as an "instrumentality" of the state by contracting for the provision of insurance to a particular pool of patients determined by statute. The Board imposes assessments on every insurance company authorized to do business in New Mexico, including those that provide Medicaid coverage through state contracts. The Board contracts with an administrator to provide administrative services to patients, and employs its own legal counsel.

The Superintendent of Insurance serves as the statutory chairman of the Board of the NMMIP, and appoints six of its ten members. There is no question that the Superintendent is a public official under New Mexico law.

The audits currently being conducted by the NMMIP, and approved by the Superintendent of Insurance, do not comply with the Audit Act and Audit Rule because they fail to address the entity's compliance with various New Mexico statutes, including, but not limited to, the Procurement Code, the Governmental Conduct Act and the Per Diem and Mileage Act.

In recent legislative sessions, bills have been introduced which would have altered the statutory provisions governing the NMMIP and altered the amount of assessments or pool of patients served. State Auditor Wayne Johnson believes that the taxpayers, the legislature, and the LFC are entitled to the full disclosure of the activities of the NMMIP, in the same manner as provided for every other state agency, local public body, entity, and instrumentality of the state.

Recommendations: Currently NMMIP has sued the OSA for a declaratory judgment to obtain a ruling from the courts which would allow the NMMIP to avoid compliance with the Audit Act. Although it is clear that the NMMIP is an "instrumentality" of the state and subject to the Audit Act, a clarification in the NMMIP's enabling legislation to that effect would resolve the issue asserted by the NMMIP in the current litigation.

Senate Bill 19 (2018 Regular Legislative Session); Audits of Conservator Accounts and the Conservatorship Steering Committee

Senate Bill 19, signed into law in 2018, amended the Uniform Probate Code regarding guardians and conservators. The amended law required new reporting forms for guardian and conservator reports, and allows for audits of those reports beginning July 1, 2018.

At the request of the judiciary, Auditor Johnson became involved in the Conservatorship Steering Committee chaired by District Judge Shannon Bacon shortly after the passage of Senate Bill 19. The OSA has actively worked with the Courts and members of the Steering Committee to develop a process for the auditing expertise of the OSA to be utilized by the Judiciary to meet the intent of SB19.

Deputy State Auditor Jack Emmons served on the Courts' Rules Committee to create new reporting forms that provide sufficient financial information and are in a format that can be audited. In addition, he has conducted training for judges on how to recognize financial "red flags" in the conservatorship reports and training for conservators on how to fill out the financial information on the forms and report to the courts.

In order to ensure that the audits are completed by trained auditors, as well as ensure that the audits are done independently of the courts and the district judges, the Administrative Office of the Courts (AOC) has contracted with the OSA to perform the audits. Both the Courts and the OSA determined that it was important for the audits to be conducted by independent auditors who could provide reports and give testimony, rather than auditors working within the judicial system.

Under the current contractual agreement, the State Auditor's Office is auditing conservatorship reports as requested by individual district judges and assisting the courts in identifying conservators who are mismanaging or misspending funds. The OSA is also conducting an audit of the approximately 916 cases handled by the Developmental Disabilities Planning Council (DDPC) to assess compliance by the state's contract guardian/conservators.

The OSA has requested an expansion of three full-time employees (FTE) to staff the guardianship/conservatorship program on an ongoing basis. Currently the staffing is funded by the contract with AOC for $300,000 in services. Those funds are placed into the Audit Fund in accordance with the Audit Act, and the OSA's budget requirement to generate $480,000 in audit fees to the Audit Fund.

Another issue encountered while developing the agreement with the courts to enable conservatorship audits is the issue of confidentiality when dealing with the assets and finances of protected persons. Currently, documents received by the OSA as part of an audit become public after the completion of the audit process; which is appropriate when dealing with state agencies, local governments, instrumentalities of the state, and local public bodies. However, it is unlikely that the Legislature intended that the finances of private individuals become subject to public inspection and review. The memorandum of understanding (MOU) between the OSA and the courts provides privacy protection by having records remain in the custody of the courts and therefore not subject to New Mexico's Inspection of Public Records Act (IPRA). This is an acceptable arrangement for the purpose of initiating the pilot program created by Senate Bill 19, but raises questions of independence and separation of powers that should be addressed as part of a long-term solution.

Recommendations: The legislature should consider amending the Audit Act or the Probate Code to provide the state auditor's office with statutory mechanisms to assist the courts in the conservatorship auditing process including privacy protection for protected persons and fund the Conservatorship Division within the State Auditor's office. These audits serve a critical role in implementing the requirements found in Senate Bill 19 (2018) to protect the assets of vulnerable people who are under the courts' protection.

Comprehensive Annual Financial Report

The state of New Mexico produces an overall annual statewide audit known as the Comprehensive Annual Financial Report (CAFR). The report is used by rating agencies to set bond rates applicable to the sale of New Mexico bonds. The State's CAFR is due by December 31 of each year, and has <u>never</u> been produced on time which resulted in Disclaimers of Opinion on the audit reports for many years. New Mexico's bond rating suffered this year due in part to the state's financial reporting practices.

New Mexico currently uses a "bottom up" approach in which each agency is individually audited, and then the results are compiled into the statewide CAFR.

A bill was introduced in the 2018 legislative session that would have changed the way the CAFR is prepared, in an attempt to find a remedy for the lateness of the CAFR. In that bill, state agencies would not have received individual financial audits, but instead would have been included in a larger statewide CAFR – essentially a "top down" approach for the financial portion of the audits only. Under the bill, the compliance aspect of the state agency audits – items such as Procurement, Per Diem and Mileage and other state law compliance- would have still been conducted at each individual state agency.

The bill did not pass, and State Auditor Johnson initiated a task force immediately after the legislative session to discuss possible solutions to the CAFR issue. Participants include the OSA, State Comptroller Ron Spilman and his staff from the CAFR unit at DFA, state agency financial personnel, and members of the New Mexico Society of CPAs. The task force formed a subcommittee that has met regularly with the goal to make recommendations regarding the statewide CAFR.

Several issues have been identified by this group for recommendations. As noted above with other types of findings, there appears to be a need for additional training among state finance personnel, and the CAFR is another area that would benefit from additional training opportunities.

Additionally, with regard to the production of the statewide CAFR, states that successfully produce a timely CAFR appear to use various types of “top down” approaches. The OSA, DFA and the representatives of the New Mexico Society of CPAs are in agreement that it is not in the best interests of the state to decrease the audit requirements for any entity.

Recommendations: The legislature may want to consider separating the CAFR from the regular annual statewide audits by creating a “top down” CAFR in addition to the existing annual financial and compliance audits already being conducted for all state agencies. The “top down” approach would allow the CAFR auditor to consider the *materiality* of each state agency, so that the smallest agencies representing a very small percentage of the state’s overall finances would not hold up the statewide CAFR.

The OSA is continuing to work with DFA and the New Mexico Society of CPAs to develop proposals for the upcoming legislative session that could provide for a timely production of New Mexico’s CAFR.

Scams and Phishing

The OSA has issued a number of alerts to state agencies regarding email and phishing scams that attempt to steal public dollars.

Unfortunately, despite the warnings, the City of Alamogordo fell victim to a phishing scam that cost the city $250,000. In that case, city employees received an email asking them to change the bank account information for a legitimate vendor. The scammers used a logo that had been previously used by the vendor and was sent from the email of an employee familiar to the procurement staff at the City. The City was unaware of the scam until the legitimate vendor inquired about payment. By then, the funds had been transferred to various accounts with the trail appearing to end in Nigeria.

Theft of Public Funds

Under the Audit Act, entities are required to report financial criminal activity that they discover to the OSA. Additionally, the OSA's special investigations division often conducts investigations and forensic audits when theft is suspected or alleged. The OSA has observed an increase in fraud and theft activities associated with ACH transactions. "ACH" refers to "automate clearing house" transactions, and are those transactions that are entirely electronic.

There appear to be insufficient controls and a lack of detail with regard to the way ACH transactions that are paid by public entities appear on bank statements. Employees at multiple types of entities have been able to steal public dollars through ACH transactions and cover the transactions so that they are not discoverable during a regular audit.

Recommendations: Electronic theft appears to be an increasing problem. Legislators and policymakers should explore options to prevent these types of losses of public funds.

Trainings Provided by the OSA

The OSA has worked with a number of different entities around the state to provide training to CPAs and governmental finance staff across the state through over 25 training sessions.

Number of Participants in OSA Trainings

Training Description	Organization Training Presented to	Number of People in Attendance
Hot Topics for Municipalities: Session 1 of 2	New Mexico Municipal League	50
Hot Topics for Municipalities: Session 2 of 2	New Mexico Municipal League	50
Resolving Audit Findings and Asset Dispositions (Session 1 of 2)	DFA Local Government Conference	50
Resolving Audit Findings and Asset Dispositions (Session 2 of 2)	DFA Local Government Conference	50
Tier Certifications & Agreed Upon Procedures Engagements	DFA Local Government Conference	38
Financial Compliance (Tier Training)	Soil and Water Conservation District	approximately 10
Acequia Pathways to Funding: Financial Compliance (Tier Training)	New Mexico Acequia Association Membership	Approximately 30
NM Office of the State Auditor Update	AGA - Albuquerque	15
Internal Controls and Fraud: the who, what when, where and why	New Mexico Society of Public Accountants	25
NM Office of the State Auditor Update	AGA - New Mexico Chapter (Santa Fe)	30
Report Review Process and Resolving Audit Findings	NMAC Treasurer's Affiliate	50
Audit Rule 2018	Independent Public Accountants and Financial and governmental entities	67
Audit Rule 2018	Independent Public Accountants and Financial and governmental entities	151
Audit Rule 2018	Independent Public Accountants and Financial and governmental entities	69
Audit Rule 2018 (2 Sessions)	Independent Public Accountants and Financial and governmental entities	369
Audit Rule 2018	Independent Public Accountants and Financial and governmental entities	48
CPA Exam	UNM Students	75
Audit Rule 2018 (2 Sessions)	Independent Public Accountants and Financial and governmental entities	287
Acequia Pathways to Funding: Financial Compliance (Tier Training)	Acequia members	24
Acequia Pathways to Funding: Financial Compliance (Tier Training)	Acequia members	30
NM AGA Conference	Independent Public Accountants and Financial and governmental entities	20
Acequia Pathways to Funding: Financial Compliance (Tier Training)	Acequia members	32
Acequia Pathways to Funding: Financial Compliance (Tier Training)	Acequia members	17
CPA Swearing in Cerimony	New CPAs	100
Regulation Update	CPAs	200
Red Flags in Conservatorship Reports	District Judges	6

Acequias

The State Auditor's Office conducted six audit trainings in 2018 across the State of New Mexico for members of acequias in cooperation with the New Mexico Acequia Association. These trainings assist acequias in becoming compliant with annual audits, enabling them to apply for state and federal grants.

Trainings Coordinated with Other Entities

The OSA has also provided fraud, waste, and abuse training at the New Mexico Association of School Business Officials. The OSA works with the New Mexico Society of CPAs to provide three days of training to IPAs and government finance employees, as well as working with the Governmental Accounting Association to provide trainings for CPAs and governmental finance personnel.

Audit Rule Trainings

The Audit Rule, NMAC 2.2.2.2 was amended in December, 2017. The OSA conducted a series of eight (8) training sessions in Silver City, Ruidoso, Albuquerque, Santa Fe, Las Vegas, and Taos for IPAs and governmental finance personnel regarding the changes and updates to the Audit Rule.

Small Political Subdivision Grants

The Office of the State Auditor (OSA) administered funds appropriated by the legislature for grants to "small political subdivisions" for the specific purpose of assisting these agencies in completing their financial reporting requirements under the Audit Act (Sections 12-6-1 through 12-6-14 NMSA 1978) for FY2018 and prior years.

"Small political subdivisions" include mutual domestic water consumers' associations, land grants, certain municipalities and special districts (including but not limited to soil and water conservation districts, acequias, water and sanitation districts, etc.).

The grants may be used by agencies that must complete, on an annual basis, either 1) a full financial and compliance audit or 2) an agreed-upon procedures under the "tiered system of financial reporting." In general, agencies that qualify for the tiered system do not have to complete annual financial and compliance audits.

In issuing the grants, the OSA gives priority to small political subdivisions that 1) demonstrate financial need or hardship associated with completing their audit reports or agreed-upon procedures reports; and 2) demonstrate that their noncompliance with financial reporting requirements will adversely impact their eligibility to receive other federal or state funding.

The Small Political Subdivision (SPS) financial assistance program began in FY15 with a $160,000 appropriation from the legislature as a specific increase in the General Fund contracts line item in the 2014 General Appropriations Act. Fifty-eight awards totaling $160,000 were given out in FY15.

The program continued in FY16 with another $160,000 appropriation in General Fund contracts. Fifty-seven awards totaling $158,446 were given out in FY16. Due to the budget austerity in FY17, the SPS funding was cut to $100,000. Twenty-nine awards totaling $100,000 were given out in FY17.

During FY17, the budget was cut further and that reduced level of funding was maintained in the FY18 budget. SPS funding was reduced to $20,000. Sixteen awards totaling $20,000 were given out in FY18.

During the FY19 budget process the OSA requested an increase in appropriations to bring the SPS funding back to FY15 levels, $160,000. That request was denied, and the SPS funding in FY19 remains at $20,000.

Since the inception of this program 160 awards totaling $438,446 have been given to 75 entities in 19 counties to assist with coming into and staying in compliance with the requirements of the Audit Act

Recommendations: The SPS grants allow the smallest governmental entities to become compliant with the Audit Act, despite budget limitations. Without the required annual audits, these small entities may be unable to procure capital outlay funds from the state or obtain grants from the federal government. The situation can become a difficult for the entity in that it does not have enough funding to conduct the annual audits, and cannot obtain more funding because it is lacking the audits. Additionally, small entities are susceptible to fraud, waste and abuse in the absence of the required annual audits. These grants have a relatively small impact on the state budget, but have a tremendous impact in preventing the loss and waste of public dollars from small entities.

Special Audits Conducted in FY2018

RediNet Broadband Project- Fiscal Agent – North Central New Mexico Economic Development District (NCNMEDD)

In the special audit of the NCNMEDD, conducted by an IPA over a two-year period, the IPA determined that the entity could not account for 12 miles of fiber optic cable, representing about $200,000 worth of inventory. NCNMEDD, an entity formed by a joint powers agreement, was acting as the fiscal agent for another entity, the RediNet Board, which was also formed by a joint powers agreement. The RediNet Board was responsible for using about $10 million in federal grant funding to build a fiber optic broadband network serving parts of north central New Mexico.

As the project progressed, neither the RediNet Board nor the NCNMEDD Board ensured that accurate and timely inventories were taken of the materials that had been purchased but not yet installed. The IPA who conducted the audit beginning in 2017 could not determine how much fiber optic cable had been purchased overall, how much had been installed, and how much should have been left over at the end of the project.

In addition to being a violation of the Audit Act, the failure to maintain the inventory created significant questions as to whether theft or fraud had occurred. The OSA issued subpoenas in support of the special audit, and obtained records from the vendors who had supplied the fiber optic cable, the vendors who had installed it, and the vendor who had prepared as-built maps and surveys of the project. All of those public records were required to have been maintained by the RediNet Board or the NCNMEDD, but were not.

The OSA worked with the State Land Office to analyze the as-built maps to determine the amount of fiber optic cable that had been installed and compared that to the overall amounts and sizes of cable purchased to determine if fiber optic cable was, in fact, missing. After reviewing all of the records produced, the OSA was able to identify the location of the majority of the fiber optic cable purchased and verify that it had been installed as part of the project.

The OSA also subpoenaed invoices from multiple vendors to provide back-up documentation for almost $1 million dollars in expenditures that were without documentation. If the entity had maintained the annual inventories and records required by state law, the project would have been transparent and accountable to the citizens it sought to serve, rather than subject to findings and investigations.

North Central New Mexico Economic Development District (NCNMEDD) – Area Agency on Aging Contract with N.M. Department of Aging and Long Term Services

The Special Audit conducted by an IPA reviewed NCNMEDD's contract with the NM Department of Aging and Long Term Services (ALTSD) to provide meals, caregiving, transportation, and other services to seniors in 32 of New Mexico's 33 counties (excluding Bernalillo County).

The audit was commenced at the request of ALTSD to investigate suspected "misuse, waste and abuse of public funds" on the part of the NCNMEDD, a Santa Fe-based council of governments that runs the Non-Metro Area Agency on Aging (NMAAA). NCNMEDD contracts with 60 local service-providers who run more than 150 sites serving approximately 72,875 older adults and caregivers.

NMAAA's unnecessary delay in reimbursing community-based service providers originally led the ALTSD to further scrutinize the NCNMEDD's operations and ask the OSA to review the entity's finances. The results of the special audit by the IPA confirmed that NCNMEDD was responsible for delays and recommended tighter controls to ensure timely payment to providers.

The audit found a number of expenditures that appear to be non-allowable under federal and state law, or are an indication of a lack of fiscal responsibility. These include:

- Nearly $58,000 in employee bonuses for about 26 public employees;
- Nearly $1,500 at Main Event, an Albuquerque entertainment venue with video games, laser-tag, a high-ropes balancing course, and a restaurant with a full-service bar;
- $8,000 for a "staff retreat" at Albuquerque's Andaluz Hotel, including banquet service and lodging;
- More than $20,000 for economic development software and conferences seemingly unrelated to direct services for seniors;
- Thousands of dollars for meals, some with alcohol, at restaurants like Tucano's and Santa Fe's Eloisa Restaurant;
- More than $6,000 wasted on unnecessary fees, penalties, credit card interest and late fees;
- Various flower arrangements for funerals.

At the time of these expenditures, the state was experiencing budget shortfalls and senior services were being reduced. State leaders were considering furloughs for 24,000 state employees. As of the date of this report, the issues have been referred by ALTSD to the New Mexico Attorney General, as well as the federal Inspector General's office with oversight of the federal funds under the Older Americans Act.

Village of Tijeras

The initial purpose of the special audit designation was to address concerns regarding the Village of Tijeras' refunds to employees of PERA deductions that were issued on January 8, 2018. It was the contention of the Mayor that the Village had withheld excess PERA contributions from employees' paychecks from 2006 to 2017, and that she and other current Village employees were entitled to refunds of the excess withholdings in the total amount of $64,423.65. Those payments were issued without the approval of the Village Council.

The OSA conducted the special audit by reviewing payroll files, payroll deductions, and related payroll reimbursements for accuracy and compliance with statutes, regulations, and policies and procedures. The OSA's special audit revealed that the $64,423.65 in payments were improper and not supported by the Village's historical payroll documentation. The OSA's audit determined that the total amount that was improperly paid out was $47,350.94. The Mayor was overpaid by the amount of $6,745.91, and the Acting Village Clerk was overpaid by the amount of $10,624.55.

The OSA's special audit also revealed that overpayments of PERA contributions were, in fact, made by a number of <u>former</u> employees of the Village. Those former employees did not receive reimbursement checks, but the Village accrued a liability for overpayments to those employees in the amount of $71,957.99.

The OSA's findings revealed a significant need for the Village to improve its internal controls related to the Village's daily operations to safeguard public funds and ensure compliance with applicable laws and regulations.

Regional Coalition of LANL Communities (RCLC)

The Regional Coalition of LANL Communities (RCLC) was created by a joint powers agreement and is comprised of elected and tribal officials from the City of Española, County of Los Alamos, County of Rio Arriba, City of Santa Fe, County of Santa Fe, Pueblo of Jemez, Ohkay Owingeh Pueblo, Town of Taos, and the County of Taos.

On January 22, 2018, the OSA received a letter from a member of the public alleging misuse of public funds by the RCLC. The OSA initiated the process set forth in the Audit Rule for investigation of complaints received. Subsequently, the OSA received another letter of concern that had been sent to the RCLC's Board Members, again alleging misuse of public funds.

In March 2018, Los Alamos County, the fiscal agent for the RCLC, provided the OSA with an internal audit report in response to the allegations sent to the RCLC Board. The internal audit report appeared to support allegations contained in the complaint. The OSA conducted additional fact-finding procedures to determine if the transactions were in compliance with relevant laws, regulations, policies, procedures, the New Mexico Procurement Code, and agreements applicable to the RCLC and its member entities.

The Special Audit made a number of findings related to the RCLC's reimbursements paid to JLH Media, Inc. and Andrea Romero Consulting, LLC which violate the Per Diem and Mileage Act, NMSA 1978, § 10-1-1 et seq., as well as NMAC 2.42.2.1 regarding the payment of mileage and per diem to public officials. Additionally, the Special Audit made findings regarding the RCLC's failure to follow its own Travel Policy and contract provisions between the RCLC and the respective contracted Executive Director with regard to reimbursements for guests, alcoholic beverages, and recreational expenses.

Specifically, the RCLC Board approved reimbursements to both JLH Media, Inc. and Andrea Romero Consulting, LLC for meals for board members while the Board member was in his or her home jurisdiction. The RCLC also approved improper reimbursement for alcoholic beverages and recreational items (baseball tickets). Hotel reimbursements did not comply with the Travel Policy and there is a lack of adequate documentation to support many expenditures, in the form of itemized receipts, again in violation of the published Travel Policy and state law. It also appeared the Executive Director(s) may have been reimbursed for some expenses by both the RCLC and the Energy Communities Alliance (ECA), a third party entity.

During the course of the special audit, the OSA noted that reimbursements requested for mileage were duplicated by the contracted executive director and its staff. The individuals collected mileage for travel to and from the same location on the same day. The OSA identified twenty-eight (28) instances of duplicate mileage reimbursements totaling $1,115.76.

The Special Audit made several findings regarding the RCLC Board's oversight and compliance duties and responsibilities under the Joint Powers Agreements Act. Specifically, the RCLC Board failed to comply with the Joint Powers Agreements Act, the joint powers agreement itself, and the Per Diem and Mileage Act, NMSA 1978, § 10-8-1 et seq. In addition, the RCLC failed to comply with the Audit Act, NMSA 1978, § 12-6-1 et seq., and the Audit Rule, NMAC § 2.2.2.1 et seq. despite being on notice from the State Auditor's Office as early as 2013 that it was required to do so. Finally, the RCLC issued 1099 statements which were incorrect and the RCLC budget contained accounting errors which may have been misleading to the Board.

The Special Audit also made findings regarding the actions of the fiscal agent, Los Alamos County. The County improperly pooled the RCLC funds in an account with Los Alamos County funds and certain funds were miscoded and paid by the wrong entity. Additionally, the RCLC Board and Los Alamos County did not appear to have maintained full and adequate records of all expenditures.

3 Year Trends in Findings Statewide

Findings by Type of Audit Opinion

	FY 2017	FY 2016	FY 2015
Total *	474 Entities	457 Entities	443 Entities
Unmodified:	449	435	426
Disclaimer:	7	7	6
	Northern New Mexico College	Northern New Mexico College	Roy Municipal Schools
	Village of Mosquero	Town of Bernalillo	Town of Bernalillo
	Village of Maxwell	Village of Maxwell	Village of Columbus
	Office of the Superintendent of Insurance	Office of the Superintendent of Insurance	Village of Capitan
	Town of Estancia	Town of Estancia	Village of Wagon Mound
	City of Tucumcari	Comprehensive Annual Financial Report (CAFR)	Department of Homeland Security and Emergency Management
	Cibola County	Town of Vaughn	
Adverse:	2	0	1
	Luna Community College		Village of Questa
	Town of Bernalillo		
Multiple:	4	7	5
	Village of Milan	Village of Wagon Mound	Cibola County
	Public Education Department	Public Education Department	Public Education Department
	Village of Cimarron	Higher Education Department	
		General Services Department	General Services Department
	Comprehensive Annual Financial Report (CAFR)	Department of Homeland Security and Emergency Management	Comprehensive Annual Financial Report (CAFR)
		Public Schools Facilities Authority	City of Gallup
		Village of Questa	
Qualified:	12	8	5
	City of Jal	Harding County	City of Jal
	Village of Tijeras	Cloudcroft Municipal Schools	Town of Vaughn
	City of Texico	City of Texico	City of Texico
	Elida Municipal Schools	Dora Consolidated Schools	Village of San Jon
	Village of Roy	Village of Reserve	Village of Cimarron
	Otis Municipal Domestic Water Consumers and Sewage Works Association	Otis Municipal Domestic Water Consumers and Sewage Works Association	
	Roy Municipal Schools	Roy Municipal Schools	
	City of Santa Fe	Sierra County	
	Department of Homeland Security and Emergency Management		
	Pojoaque Valley School District		
	Village of Questa		
	Union County		

* Entities receiving full financial audits

There has been a steady increase since FY2015 in the number of entities receiving unqualified audit opinions, indicating progress being made toward resolving the most significant levels of audit findings in more entities statewide.

3 Year Trend – New and Repeat Findings

	FY 2017	FY 2016	FY 2015
Total Findings:	1,795	1,819	2,033
New Findings:	1,081 (60%)	1,062 (58%)	1,220 (60%)
Repeat Findings:	714 (40%)	757 (42%)	813 (40%)

Over the three-year period, approximately 40% of findings are repeated from the prior year, with little variation. Little progress is being made in addressing repeated findings. The OSA's recommendations provided above seek to provide insight to legislators and policymakers to find solutions to systemic repeated findings.

3 Year Trend – Severity of Audit Findings

	FY 2017	FY 2016	FY 2015
Total Findings:	1,795	1,819	2,033
Material Non-Compliance:	30 (2%)	30 (2%)	38 (2%)
Material Weakness:	290 (16%)	228 (12%)	282(14%)
Significant Deficiency:	558 (31%)	630 (35%)	719 (35%)
Other Non-Compliance and findings that do not rise to the level of a significant deficiency:	917 (51%)	931 (51%)	994 (49%)

Roughly half of all findings rise to the severity level of Significant Deficiency or worse, with little variance over the past three fiscal years. Like the trend toward an increase in the number of unqualified opinions, there has been a decrease in the overall number of findings, and a small decrease in the overall number of findings that rise to the level of Significant Deficiency or higher.

3 Year Trend - Top Ten Most Common Types of Findings

FY 2017	FY 2016	FY 2015
1) Lack of Policies and Procedures or Internal Controls (230 Findings)	1) Lack of Policies and Procedures or Internal Controls (205 Findings)	1) Payroll and Related Liabilities (252 Findings)
2) State Law Compliance – Other (177 Findings)	2) Expenses/Expenditures (183 Findings)	2) State Law Compliance (187 Findings)
3) Budgetary Compliance (149 Findings)	3) Budgetary Compliance (177 Findings)	3) Budgetary Compliance (183 Findings)
4) Cash and Investments (137 Findings)	4) State Law Compliance (159 Findings)	4) Grant Compliance (175 Findings)
5) Financial Reporting (129 Findings)	5) Cash and Investments (137 Findings)	5) Expenses/Expenditures (147 Findings)
6) Grant Compliance (127 Findings)	6) Payroll and Related Liabilities (123 Findings)	6) Capital Assets (145 Findings)
7) Payroll and Related Liabilities (115 Findings)	7) Financial Reporting (114 Findings)	7) Financial Reporting (145 Findings)
8) Capital Assets (100 Findings)	8) Travel and Per Diem (96 Findings)	8) Cash and Investments (143 Findings)
9) Procurement (85 Findings)	9) Grant Compliance (96 Findings)	9) Lack of Policies and Procedures or Internal Controls (128 Findings)
10) Revenue and Receivables (79 11) Findings)	10) Capital Assets (87 Findings)	10) Travel and Per Diem (86 Findings)

This trend shows a significant increase in findings for Lack of Policies and Internal Controls from 2015 to 2017, as well as an increase in Procurement Findings, which appears for the first time in the ten most common findings list in FY2017. The OSA and reports of IPAs indicate that many of these findings stem from a lack of training and expertise among finance staff.

3 Year - Total Entities Receiving Annual Audits

	FY 2017	FY 2016	FY 2015
Total Entities:	474	457	443
State Agencies:	98	93	89
Municipalities:	95	96	91
Schools:	88	91	92
Counties:	35	32	33
Special Districts:	21	33	34
Higher Education Institutions:	17	14	14
Other Agencies:	15	6	6
District Attorneys:	15	15	15
Courts:	14	14	14
Public Improvement Districts:	11	9	8
Hospitals or Special Hospital Districts:	10	8	8
Soil & Water Conservation Districts:	10	11	10
Regional Educational Cooperatives:	10	10	10
Councils of Government:	8	5	5
Mutual Domestic Water Associations:	8	8	3
Independent Housing Authorities	5	4	3
Tax Increment Development Districts:	5	2	2
Workforce Boards:	4	4	4
Irrigation Districts:	3	0	0
Water & Natural Gas Associations:	2	2	2

The OSA is moving toward increased compliance with the annual audit requirement set forth in the Audit Act, with an increase of 31 agencies being current on their annual audits since FY2015.

Entities that Have Not Submitted FY 2017 Audits- As of October 15, 2018

Entity Name	Last Audit Completed
4031 North Central Solid Waste Authority FY2016 and FY2017 audits were received and are in the review process at OSA	6/30/2015
6182 Town of Vaughn	6/30/2016
7062 Mountainair Public Schools *FY17 was received and is in review by the OSA	6/30/2016
605 Martin Luther King, Jr. Commission	6/30/2014
3089 Blanco Mutual Domestic Water Consumers Association	6/30/2009
3280 North Star Mutual Domestic Water Consumers Association	6/30/2010

Glossary of Terms

Audit
In a government audit, an auditor determines whether the financial statements of an entity are presented fairly in all material respects and in accordance with accounting standards by reviewing the underlying information and processes that went into preparing the financial statements.

Audit Opinion
Audit reports include an opinion as to whether there is reasonable assurance that the financial statements are free from material misstatements.

Audit Finding
In addition to the opinion, an audit report may contain 'findings'. A finding indicates a deficiency or an issue of non-compliance that the auditor found when conducing the audit.

IPA – independent public accountant approved by the OSA pursuant to NMAC 2.2.2.8.

Levels of Severity of Audit Findings:

<u>Material Non-Compliance –</u> A failure to comply with laws, regulations, contracts or grant agreements that is quantitatively or qualitatively material, either individually or when aggregated with other non-compliance to the compliance requirement as a whole or at the individual program level.

<u>Material Weakness –</u> A deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the agency's financial statements will not be prevented, or detected and corrected, on a timely basis.

<u>Significant Deficiency –</u> A deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

<u>Other Non-Compliance –</u> Is a finding that does not rise to the level of a significant deficiency, but is required by New Mexico Statutes Annotated 1978, Section 12-6-5 (any violation of law or good accounting practices found by the audit). Other non-compliance is a failure to comply with laws, regulations, contracts, or grant agreements that may affect the financial statements as a whole, or at the individual fund or program level.

Types of Audit Opinions

Unmodified opinion – The auditor has concluded that the financial statements of an entity are presented fairly, in all material respects in accordance with generally accepted accounting principles.

Qualified opinion – The auditor has concluded that misstatements, individually or in the aggregate, are material but not pervasive to the financial statements, or the auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but concludes that the possible effects on the financial statements of undetected misstatements, if any, could be material but not pervasive.

Adverse Opinion – The auditor has concluded that misstatements individually or when grouped with other misstatements, are both material and pervasive to the financial statements.

Disclaimer of Opinion – The auditor is unable to obtain sufficient appropriate audit evidence on which to base their opinion, and concludes that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive.

Multiple Opinions – The auditor expresses different opinions on various aspects of the financial statements.

Types of Findings

Budgetary Compliance – An exception or deficiency wherein the governmental entity did not comply with state or local governmental budget requirements.

Capital Assets – Any violation of state requirements relating to the recording, tracking, or disposition of capital assets, or an exception or deficiency in accounting for a governmental entity's capital assets and/or related depreciation, which includes land, buildings, infrastructure, equipment (including motor and aircraft fleets), and intellectual property (including software) that have an estimated useful life of one year or more.

Cash and Investments – An exception or deficiency in accounting for the governmental entity's cash, which is money in the form of deposits, including short-term or long-term investments.

Expenses and Expenditures – An exception or deficiency in the overall public spending carried out by the governmental entity, including expenditures in violation of a grant or other agreement, payment for goods or services prior to receipt, expenses not properly authorized, a lack of supporting documentation, and deficiencies related to purchase orders.

Financial Reporting – An exception or deficiency in the governmental entity's process for producing financial statements that fairly reflect its financial position and activities in accordance with applicable accounting standards.

Grant Compliance – An exception or deficiency wherein the governmental entity failed to comply with state or federal requirements related to a grant agreement.

Lack of Policies and Procedures or Internal Controls – An exception or deficiency in the governmental entity's policies and procedures such that the policies and procedures are not sufficient to create a proper internal control environment to ensure accountability and consistency in the financial reporting and compliance with applicable laws, regulations, contracts and grant agreements.

Payroll and Related Liabilities – An exception or deficiency associated with amounts owed for payroll related expenditures that are not yet paid, creating a liability or any violation of federal, state, or local requirements regarding employment, required forms, or payroll reporting.

Procurement – Any violation of applicable laws, rules, and regulations governing the procurement of goods and services with public funds.

Revenue and Receivables – An exception or deficiency related to the revenue and/or funds received or to be received by the governmental entity.

State Law Compliance – Any violation of state statutory requirements, including, but not limited to, the Anti-Donation Clause of the New Mexico Constitution, the Governmental Conduct Act, the Open Meetings Act and the Public Money Act.

Travel and Per Diem – An exception or deficiency from state or local laws, rules and regulations pertaining to governmental travel and per diem. Per diem is the daily allowance for expenses that governmental entities give an individual to cover expenses when traveling for work.