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From: Mark Melhoff, *Acting Controller*, Financial Control Division
New Mexico Department of Finance and Administration

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RE: PUBLIC COMMENT REGARDING 2024 PROPOSED CHANGES TO THE NEW MEXICO STATE AUDIT RULE

This memorandum shall serve as public comment by the Financial Control Division ("FCD") of the Department of Finance and Administration ("DFA") regarding proposed changes to the 2024 Audit Rules under the New Mexico Administrative Code ("NMAC"). The FCD's public comments are as follows.

The FCD strongly opposes proposed changes to the Auditor Rotation Rule under NMAC 2.2.2.8.F.3

The FCD opposes proposed changes to the NMAC 2.2.2.8.F.3, which change the auditor rotation period from eight years to six years. The proposed rule change is concerning for the following reasons:

1. **Inconsistencies.** A six-year cycle will cause inconsistencies between the audit contracting process and the state procurement code. Under NMSA (1978) § 13-1-150, service contracts are limited to four years, including all extensions and renewals. When compared to an eight-year cycle, a six-year cycle would require an additional request for proposal, resulting in increased administrative costs and a burden for all state entities.

2. **Unclear Implementation Date.** In the year of implementation, state agencies hitting the six-year maximum would be required to issue a new request for proposal ("RFP"). If the audit rule becomes effective in April without some type of future implementation date, state agencies may not have adequate time to complete an RFP by July 1st. This would lead to delays in agency audits as well as delays for the state's ACFR.

3. **Potential Audit Issues.** In recent years, the state has seen a steady decline in the number of firms that can perform agency audits. Decreasing the rotation period could have a potential impact on the number of available firms willing to engage in state agency audits.

The FCD proposes changes to the report due dates under NMAC 2.2.2.9.A.1.C

Under NMAC 2.2.2.9.A.1.C, the due date for the DFA agency audit is November 1st. The FCD proposes changing the date for DFA-341 to November 15th for the following reasons. First, the DFA houses the Board of Finance severance tax bond ("STB") Capital Outlay program, which provides funds for all legislatively approved STB capital outlay projects statewide. Many due dates for state agencies have been, or are being, pushed back. Further push back results in challenges for the DFA because the DFA must complete the DFA's audit by November 1st while also depending on state agencies to timely perform reconciliation and close out of prior year activity. If due dates continue to be extended, then the DFA recommends increasing the time for only the DFA.

The State Controller's Office of the DFA proposes additional notice requirements to the Report Due Dates under NMAC 2.2.2.9.A.5.

The State Controller's Office ("Controller") of the DFA proposes the DFA be added as an agency required to receive notice of when circumstances exist that will make an agency's audit report late. The reason for the proposed change is the DFA is responsible for completing the state's annual comprehensive financial report ("ACFR"). The ACFR is highly dependent on the timely submission of audits by state agencies. However, when a state agency, state entity, or component of the state, submits a late audit, the time required to properly compile the ACFRs is increased. As such, the Controller respectfully requests the DFA, like the state auditor, receive notice of when circumstances exist that will make an agency's audit report late, provided the state entity falls under the purview of the DFA and reports within the ACFR.

The FCD proposes the DFA be added as an agency responsible for engaging in a SOC-2 compliance audit.

Regulations at NMAC 2.2.2.10.S.2 direct the Department of Information Technology ("DoIT") to engage in an SOC-2 compliance audit of the state's Enterprise Resource Planning (ERP) system also known as SHARE on an annual basis. However, under statute at NMSA (1978) § 6-5-2.1 (F), the FCD of the DFA must "prescribe, develop*, operate and maintain* a uniform statewide accounting system network[.]" (Emphasis added). As such, the DFA strongly believes the DFA should be added as an agency responsible for engaging in an SOC-2 compliance audit. This means, the DFA and DOIT will jointly engage in an SOC-2 compliance audit of the SHARE system.

For questions, email the FCD's Acting Controller, Mark Melhoff at marks.melhoff@dfa.nm.gov.