

**NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING**

**Public Notice:** The New Mexico Office of the State Auditor (OSA) will hold a public hearing on April 29, 2025 at 9:00 a.m. The public hearing will be held in-person at CNM Workforce Training Center, 5600 Eagle Rock Avenue, NE, Albuquerque, NM 87113.

**Purpose:** The purpose of the public hearing is to receive public comments and to consider adoption of proposed amendments to 2.2.2 NMAC - Requirements for Contracting and Conducting Audits of Agencies (Audit Rule).

**Statutory Authority:** Audit Act, Section 12-6-12 NMSA 1978.

**Copies of Proposed Amendments:** Copies of the proposed amendments are available on the State Auditor's website at [osa.nm.gov](http://osa.nm.gov). A copy of the proposed amendments may also be requested by contacting Bernadet Martinez at the OSA by telephone at (505) 469-9706 or by email at [Bernadet.Martinez@osa.nm.gov](mailto:Bernadet.Martinez@osa.nm.gov).

**How to Comment on the Proposed Amendments:** Public comment regarding the proposed amendments can be made in person at the public rule hearing, by mail sent to Bernadet Martinez, Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, NM 87507, or by email sent to [rulechange@osa.nm.gov](mailto:rulechange@osa.nm.gov). Written comments must be received by 5:00 pm mountain time April 28, 2025. All timely written comments will be posted on the OSA website at [osa.nm.gov](http://osa.nm.gov). Written comments may also be received at the in-person public hearing until the hearing is closed.

**Special Accommodations:** If you require special accommodations to participate in or attend the in-person hearing, please contact Bernadet Martinez at (505) 469-9706 or [Bernadet.Martinez@osa.nm.gov](mailto:Bernadet.Martinez@osa.nm.gov) at least one week prior to the meeting or as soon as possible.

**Summary of Proposed Amendments:**

**2.2.2.2 Scope:** The proposed amendment removes auditors of the OSA from the scope of the Audit Rule and clarifies that the Audit Rule covers contracting for and performing professional services related to the examination of financial affairs and transactions of agencies and local public bodies.

**2.2.2.6 Objective:** The proposed amendment clarifies that the objective of the Audit Rule is to establish policies, procedures, rules and requirements for contracting and conducting financial audits, special audits, attestation engagements, performance audits and forensic accounting engagements for the examination of the financial affairs of all governmental agencies and local public bodies of the state of New Mexico.

**2.2.2.7 Definitions:** The proposed amendment makes several technical corrections and inserts definitions for governmental accounting standards board statements (GASBS), mountain time (MT) and the New Mexico retiree health care authority (RHCA).

**2.2.2.8 The Procurement and Audit Process:**

Subsection A regarding firm profiles is amended to delete "attest" and insert "attestation" in accordance with the definition in Subsection A of 2.2.2.7 NMAC.

Subsection B regarding list of approved firms is amended to delete "attest" and insert "attestation".

Subsection C regarding disqualified firms is amended to delete "attest" and insert "attestation" and to make a technical correction regarding the acronym for agreed upon procedures.

Subsection F regarding procedures to obtain professional services from an independent public accountant (IPA) is amended to: (i) update a citation number in the uniform guidance procurement requirements; (ii) make style changes so that language is more concise; and (iii) update website addresses.

Subsection G regarding state auditor approval/rejection of unsigned contract is amended to make a technical correction to cite the Audit Act in upper case.

Subsection H regarding audit contract requirements is amended to update website addresses and terminology used by the taxation and revenue department regarding business tax identification numbers and to correct the name of the state agency that has the contracts review bureau.

Subsection K regarding subcontractor requirements is amended to: (i) update a citation number in generally accepted government auditing standards (GAGAS); (ii) update a website address; and (iii) make style changes so that language is more concise.

Subsection M regarding progress payments is amended to correct a misquote regarding the statutory language of Subsection B of Section 12-6-14 NMSA 1978.

Subsection N regarding contract amendment requirements is amended to: (i) delete “non-attest” and insert “non-attestation” in accordance with the definition in Subsection N of 2.2.2.7 NMAC; (ii) update a website address; and (iii) provide that contract amendments for fee increases shall only be approved by the state auditor if there is a significant change in the scope of the audit.

Subsection O regarding termination of audit contract requirements is amended to: (i) delete a citation regarding an old court order; (ii) provide that OSA shall provide written notice of contract termination to the IPA and the agency or local public body; and (iii) correct an internal cross reference that cited the wrong subsection of 2.2.2.16 NMAC.

#### **2.2.2.9 Report Due Dates:**

Subsection A regarding report due dates is amended to: (i) require that the mountain time zone applies to due dates for reports; (ii) make technical corrections regarding agency names, acronyms and website addresses; (iii) delete an obsolete reference to a report due date for certain agencies; (iv) correct errors in a cross reference to certain Subsections of 2.2.2.10 NMAC; (v) update a citation number in the American institute of certified public accountants (AICPA) codification of U.S. auditing standards (AU-C) and clarify that AU-C 700.43 requires that the auditor’s report should be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor’s opinion on the financial statements, including evidence that all statements and disclosures that the financial statement comprise have been prepared and that management has asserted that it has taken responsibility for those financial statements; and (vi) make style changes so that language is more concise.

Subsection B regarding delivery and release of the audit report is amended to require mountain time zone for delivery of the audit report and update a citation number in AICPA Audit and Accounting Guide (AAG GAS).

#### **2.2.2.10 General Criteria:**

Subsection A regarding annual financial and compliance audits is amended to update several citation numbers in AICPA Audit and Accounting Guide - Government auditing standard and single audits (AAG SLV) and to make style changes so that language is more concise.

Subsection B regarding governmental auditing, accounting and financial reporting standards is amended to make a technical correction indicating that the latest edition of 2.2.2 NMAC is amended.

Subsection C regarding financial statements and notes to the financial statements is amended to make a technical correction regarding acronyms.

Subsection D regarding requirements for preparation of financial statements is amended to make style changes so that language is more concise.

Subsection E regarding audit documentation requirements is amended to make style changes so that language is more concise.

Subsection G regarding reverting or non-reverting funds is amended to make style changes so that language is more concise.

Subsection H regarding referrals and risk advisories is amended to update website addresses and make style changes so that language is more concise.

Subsection I regarding state auditor workpaper requirement is amended to update a citation number in GASBS.

Subsection J regarding state compliance audit requirements is amended to correct state law references and update statute citations and make style changes so that language is more concise.

Subsection K regarding federal requirements is amended to add a new provision stating that in situations where expenditures reported in the schedule of expenditures of federal awards (SEFA) are not the same as the expenditures reported in the basic financial statements (due to outstanding loan balances, timing of grant awards, expenditures incurred in a prior period, etc.), a reconciliation shall be included in the notes to the SEFA.

Subsection L regarding audit finding requirements is amended to update several AU-C and AAG GAS citation numbers and make style changes so that language is more concise.

Subsection M regarding exit conference and related confidentiality issues is amended to (i) add a new provision stating that an IPA is not precluded from complying with communication requirements, between component auditors and the group auditor, detailed in *AU-C 600, Special Considerations - Audits of Group Financial Statements* and that state agency IPAs, constitutional institutes of higher education IPAs and state of New Mexico component unit IPAs are all component auditors for the New Mexico annual comprehensive financial report (ACFR) Group Audit; and (ii) update an AU-C citation number.

Subsection P regarding public monies is amended to make style changes so that language is more concise and to update an AU-C citation number.

Subsection Q regarding budgetary presentation is amended to make style changes so that language is more concise.

Subsection S regarding consideration of internal control and risk assessment in a financial statement audit is amended to add provisions regarding SOC-2 and SOC-3 audit reports.

Subsection T regarding required auditor's reports is amended to update several citation numbers in AAG SLV and AAG GAS.

Subsection V regarding joint powers agreements is amended to add a governmental accounting standards board (GASB) codification section number.

Subsection X regarding tax increment development districts is amended to delete language that is in Chapter 5, Article 15 NMSA 1978 and instead insert a cross reference to this statutory provision.

Subsection AA regarding GASBS 75, accounting and financial reporting for postemployment benefits other than pensions is amended to make style changes so that language is more concise.

#### **2.2.2.12 Specific Criteria:**

Subsection A regarding audits of state agencies is amended to make style changes so that language is more concise.

Subsection B regarding audits of housing authorities is amended to make style changes so that language is more concise.

Subsection C regarding audits of school districts is amended to make style changes so that language is more concise.

#### **2.2.2.14 Continuing Professional Education and Peer Review Requirements:**

Subsection B regarding peer review requirements is amended to delete the requirements that: (i) the IPA firm profile submission to the state auditor include a list of the governmental audits reviewed during the peer review; and (ii) the peer reviewer shall be familiar with this rule and that the state auditor provides audit rule training.

Subsection C regarding state auditor quality control reviews is amended to state that the state auditor may perform its own quality control review of IPA audit reports and working papers.

Subsection D regarding SOC Audit qualifications is amended to make a technical correction changing a word from upper case to lower case.

#### **2.2.2.15 Special Audits and Examinations:**

Subsection A regarding fraud, waste or abuse in government reported by agencies, IPAs or members of the public is amended to delete “non-attest” and insert “non-attestation” in accordance with the definition in Subsection N of 2.2.2.7 NMAC.

Subsection B regarding special audit or examination process is amended to delete “non-attest” and insert “non-attestation” in accordance with the definition in Subsection N of 2.2.2.7 NMAC and to make technical corrections such as changing a word from upper case to lower case or make style changes so that language is more concise.

Subsection C regarding agency-initiated special audits or examinations is amended to delete “non-attest” and insert “non-attestation” in accordance with the definition in Subsection N of 2.2.2.7 NMAC.

#### **2.2.2.16 Annual Procedures Required for Local Public Bodies with Annual Revenues Less than Five Hundred Thousand Dollars (\$500,000) (Tiered System):**

Subsection F regarding requirements of the IPA selected to perform the AUP is amended to update a website address and an AU-C citation number.

Subsection H regarding report due dates, notification letters and confidentiality is updated to require that the mountain time zone applies to due dates and to make style changes so that language is more concise.