State of New Mexico
OFFICE OF THE STATE AUDITOR

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State Auditor Balderas Releases Special Audit that Reveals Procurement Violations Involved in Approximately $240,000 in Payments Made by McKinley County to a Business Owned by the County Commission Chairman

Independent Special Audit Also Identifies Potential Governmental Conduct Act Violations Related to Certain County Purchases from Dallago Corporation; County Denied Auditors' Requests for Documents Necessary for Audit

(Santa Fe, NM)--Today, State Auditor Hector Balderas announced the results of a special audit that found McKinley County committed violations of the Procurement Code, the County's purchasing policies, and potential violations of the Governmental Conduct Act related to the County's contracts for heating/air conditioning, plumbing and other goods and services with Dallago Corporation, which is owned by McKinley County Commission Chairman David Dallago. The findings of the independent special audit, conducted by Accounting & Consulting Group, LLP, also reveal the County has deficient controls over purchases from Dallago Corporation, lacks proper "tone from the top" pertaining to procurement from the company, and lacks formal and adequate conflict of interest policies. Balderas' office designated the County for special audit in May 2012 after allegations of questionable procurement activity were reported to the Office of the State Auditor in writing and via the State Auditor's Fraud Hotline.

"I'm very concerned that thousands of dollars were paid to the County Chairman's company in violation of state law," Balderas said. "Every government official and employee who violates procurement laws should be held accountable to taxpayers."

The independent auditor also noted that the County's average annual payments to Dallago Corporation increased significantly after Commissioner Dallago assumed office on January 1, 2005. From July 1, 2000 through December 31, 2004, the County's expenditures to Dallago Corporation were approximately $25,000 per year. From January 1, 2005 through June 30, 2012, the County's average expenditures with Dallago Corporation increased to approximately $259,000 per year. The findings of the special

audit revealed procurement violations are involved in approximately $240,000 in payments made to Dallago Corporation, including:

- The County purchased $50,703 for heating/air conditioning units from the Dallago Corporation without complying with the Procurement Code and the terms and conditions of the County's purchasing policy;
- The County paid Dallago Corporation $27,414 for goods and/or services without an invoice being duly processed and authorized;
- The County purchased culverts and related installation services for the Hasler Valley Road from the Dallago Corporation in the amount of $54,059. The goods and services were not on the County's plumbing contract with Dallago Corporation;
- Dallago Corporation installed a duplex lift station and billed McKinley County in November 2011 in the amount of $55,226. The Eleventh Judicial District Court ordered the County to reissue the RFP for the project because of various procurement violations, including that the County did not include the required number of evaluation committee members;
- Dallago Corporation performed plumbing services regarding the Crownpoint Fire Department Re-Build Sewer System Project amounting to $23,924 prior to the issuance of a purchase order by the County. Also, this work was not included in the contractual agreement and the County did not issue an invitation to bid pursuant to the Procurement Code;
- The County paid Dallago Corporation $20,034 in interest related to the late payment of invoices, which the independent auditor found was in excess of the statutory allowable amount; and
- The County and Dallago Corporation executed a contract renewal for heating/air conditioning professional services beyond the allowable statutory period of four years and without approval of the County Commission.

The County also denied the independent auditor's and the Office of the State Auditor's requests for a final report of an investigation conducted by the County that related to the special audit's scope. In its report, the independent auditor states "we believe [the County's final investigative report] was necessary to assist us in gaining an understanding of the dynamics of the facts and circumstances of the relationship and transactions between the County and Dallago Corporation, and potentially may have resulted in reporting additional internal control deficiencies, including those specifically related to Dallago Corporation."

"I'm extremely concerned that the County was not fully transparent during this lawful audit process," Balderas added.

The special audit's findings also contain numerous other failures by the County to adhere to the Procurement Code, including the County's failure to take into consideration the five percent New Mexico preference when evaluating bids and proposals. The findings also show that the County does not have procedures in place to monitor and mitigate the risk for fraud and does not have formal and adequate conflict of interest

policies. As a result, the special audit findings state, the County and/or one of its commissioners may have violated both procurement requirements and the Governmental Conduct Act.

In its report, the independent audit firm provided several recommendations related to the findings. One of the recommendations is that the County should evaluate and hold its employees and officials accountable for the execution and implementation of state procurement laws and regulations.

Because the special audit indicates violations of the Procurement Code and potential violations of the Governmental Conduct Act, Balderas stated that he will refer the report to the Eleventh Judicial District Attorney, the Attorney General and other state law enforcement agencies. Balderas also will refer the report to the Secretary of State, the Legislative Finance Committee, and the Local Government Division of the Department of Finance and Administration.

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