

**2022 Audit Rule**  
**Summary of Proposed Changes**

**2.2.2.5 NMAC:** The Effective Date of the 2022 Audit Rule will be March 22, 2022.

**2.2.2.7(A)(3) NMAC:** This subsection was updated to add a definition for “abuse”:

**(3)** “Abuse” includes, but is not limited to, behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances but excludes fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements. Abuse also includes misuse of authority or position for personal interests or for the benefit of another those of an immediate or close family member or business associate. (GAGAS latest revision.) Abuse does not necessarily involve fraud or illegal acts. However, abuse may be an indication of potential fraud or illegal acts and may still impact the achievement of defined objectives. (GAO-14-704G federal internal control standards paragraph 8.03.)

**2.2.2.7(F)(4) NMAC:** This subsection was updated to add a definition for “fraud”:

**(4)** “Fraud” includes, but is not limited to, fraudulent financial reporting, misappropriation of assets, corruption, and use of public funds for activities prohibited by the constitution or laws of the state of New Mexico. Fraudulent financial reporting means intentional misstatements or omissions of amounts or disclosures in the financial statements to deceive financial statement users, which may include intentional alteration of accounting records, misrepresentation of transactions, or intentional misapplication of accounting principles. Misappropriation of assets means theft of an agency’s assets, including theft of property, embezzlement of receipts, or fraudulent payments. Corruption means bribery and other illegal acts. (GAO-14-704G federal internal control standards paragraph 8.02).

**2.2.2.7(N)(4) NMAC:** Added a definition for the acronym “NMCD”, which means the New Mexico Corrections Department. Renumbered as 2.2.2.7 (N)(5) and (6) respectively, due to the addition of the definition for New Mexico Department of Corrections.

**2.2.2.7(N)(5) NMAC:** “Non-attest engagement” definition updated and to remove the term “audits” from the definition.

**2.2.2.7(S)(4) NMAC:** Added a definition for the acronym “SLO”, which means the State Land Office.

**2.2.2.7 (W)(1) NMAC:** This subsection was updated to add a definition for “waste”:

**(1)** “Waste” includes, but is not limited to, the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse. Rather waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight. Waste does not necessarily involve fraud or illegal acts. However, waste may be an indication of potential fraud or illegal acts and may still impact the achievement of defined objectives. (GAO-14-704G federal internal control standards paragraph 8.03.)

**2022 Audit Rule**  
**Summary of Proposed Changes**

**2.2.2.8(C)(2):** This subsection has been updated to reflect the OSA will recognize firm mobility:

“(2) the firm does not have a current New Mexico firm permit to practice, if applicable;”

**2.2.2.8(F)(7) NMAC:** This subsection was updated for clarity:

...After the agency receives notification of approval of the selected IPA and contract from the OSA, the agency is responsible for getting the contract signed and sent to any oversight agencies [~~including DFA,~~] for approval (if applicable). The OSA shall not physically sign the contract. After the agency obtains all the required signature and approvals of the contract, the agency shall submit an electronic portable document format (PDF) copy of the [~~final signed~~] fully executed contract to the OSA by [~~electronic mail to reports@osa.state.nm.us~~] uploading it in OSA-Connect.

**2.2.2.8(F)(8) NMAC:** This subsection was updated for clarity:

The agency shall [~~deliver~~] submit the unsigned contract generated by OSA-Connect to the OSA by the due date shown below; submission prior to the due date shown is permissible. In the event that the due date falls on a weekend or holiday, the due date shall be the next business day. If the unsigned contract is not submitted to the state auditor by these due dates, the IPA may, according to professional judgment, include a finding of non-compliance with Subsection F of 2.2.2.8 NMAC in the audit report or AUP report.

**2.2.2.8(F)(8)(c), (d), and (g) NMAC:** These paragraphs were updated for clarity, and, in the case of paragraph (d), to allow more time to allow for contract execution and interim work to begin:

(c) incorporated counties (of which Los Alamos is the only one), local workforce investment boards and local public bodies with a June 30 fiscal year end that do not qualify for the tiered system: May 15;

(d) councils of governments, district courts, district attorneys, state agencies: [~~July~~] June 1 and the state of New Mexico comprehensive annual financial report: July 31;

(g) agencies and local public bodies that do not qualify for the tiered system with a fiscal year end other than June 30 shall use a due date 30 days before the end of the fiscal year;

**2.2.2.8(H) NMAC:** This subsection was updated for clarity as it relates to OSA-Connect:

**H. Audit contract requirements:** The agency shall use OSA-Connect at [www.osa-app.org](http://www.osa-app.org) to submit the appropriate audit or AUP engagement contract [~~form provided by the OSA through the OSA-connect website at [www.osa-app.org](http://www.osa-app.org)~~]. Only contract [~~forms provided by the state auditor shall using~~] templates generated through OSA-connect shall be accepted and shall:

**2.2.2.8(H)(4) NMAC:** This subsection was updated for clarity:

**2022 Audit Rule**  
**Summary of Proposed Changes**

(4) ~~[if the agency requires the IPA to provide additional services outside the scope of work described in the audit or AUP contract form provided through the OSA-connect website, the additional services shall be described in detail in the “other provisions section” of the contract; if the additional services required by the “other provisions” section of the contract cause a significant change in the scope of the audit, then the contract amendment provisions of Subsection N of 2.2.2.8 NMAC shall apply.]~~ in the “other” section of the contract additional services shall be related to the scope of work, but not included in previous categories in the compensation section. Such costs shall be fully detailed and sufficiently describe the required audit related work in the “other provisions” section of the contract.

**2.2.2.8 (N)(1) NMAC:** This subsection was updated for clarity as it relates to OSA-Connect:

(1) Contract amendments to contracts for audit services, AUP services, or non-attest services shall be submitted to the OSA regarding executed contracts. Contracts may not be amended after they expire. The contract should be amended prior to the additional work being performed or as soon as practicable thereafter. ~~[Any amendments to contracts for audits, AUPs, or other attest or non-attest engagements shall be made on the contract amendment form available at [www.saonm.org](http://www.saonm.org).]~~ The agency shall use OSA-Connect at [www.osa-app.org](http://www.osa-app.org) to submit the appropriate draft audit or AUP engagement contract amendment. The OSA’s review of audit contracts and amendments does not include evaluation of compliance with the state procurement code or other applicable requirements. Although the parties may amend the delivery dates in a contract, audit report regulatory due dates cannot be modified by amendment. The OSA’s review of audit contract amendments does not include evaluation of compliance with any state or local procurement laws or regulations; each agency is responsible for its own compliance with applicable procurement laws, regulations or policies.

**2.2.2.8 (N)(3) NMAC:** This subsection was updated for clarity:

...The state auditor shall also consider the auditor independence requirements of Subsection L of 2.2.2.8 NMAC when reviewing contract amendments for approval. ~~[Requests for contract amendments shall be submitted to the OSA with the signed contract amendment.]~~ The OSA shall review ~~[the]~~ amendment requests and respond to the agency and the IPA within 30 calendar days of receipt.

**2.2.2.9(A)(1)(d) NMAC:** Revised to add the State Land Office and the New Mexico Corrections Department to the list of entities with a due date of November 15.

**2.2.2.9(A)(1)(g) NMAC:** This paragraph was updated for clarity, replacing “including” with “and”.

**2.2.2.9(A)(1)(m) NMAC:** This paragraph was added to accommodate agencies that require a report to be released by a specific date (board meeting, federal reporting, etc.):

**2022 Audit Rule**  
**Summary of Proposed Changes**

(m) any agency that requires its report to be released by any specific date (e.g., due to board meeting, federal reporting, etc.): the earlier of its agency due date or one month prior to the requested release date; and

**2.2.2.10(A)(1)(c)(v) NMAC:** This subparagraph was updated for consistency replacing “form” with “template”.

**2.2.2.10(H)(1) NMAC:** This subsection was revised regarding required responses to referrals from IPAs to add a requirement to send such responses separately from any draft report and addressed to the attention of the OSA Special Investigations Division by e-mail to SIDreferrals@osa.state.nm.us.

**2.2.2.10(K)(4) NMAC:** This subsection was removed.

**2.2.2.10(L)(2)(a) NMAC:** This paragraph was updated to refer the IPA to the most recent revision of GAGAS versus a particular cite and to include the statement “IPAs shall consider including findings from special audits in annual audit reports.”

**2.2.2.10(L)(5) NMAC:** This subsection was updated regarding when approval of a professional services contract is required:

If an agency has entered into any professional services contract with ~~[the]~~ an IPA ~~[who performs the agency’s annual financial audit, or the]~~ with a scope of work ~~[on any professional services contract]~~ that relates to fraud, waste, or abuse, and the contract was not approved by the state auditor, the IPA shall report a finding of noncompliance with Subsection L of 2.2.2.8 NMAC.

**2.2.2.10(R)(2) NMAC:** This subsection was updated to include reversions in an SI schedule or in a note to the financial statements.

**2.2.2.10(U) NMAC:** This subsection was modified to clarify that dispositions include trade-ins or lost, stolen, or destroyed items.

**2.2.2.10(W) NMAC:** This subsection was retitled “Inventory certification”.

**2.2.2.10(W)(1) NMAC:** This subsection was updated for clarity to ensure compliance with 12-6-10 NMSA 1978 and additional requirements.

**2.2.2.12(A)(6) NMAC:** This subsection regarding reversions to the state general fund was updated to add clarity regarding where reversions shall be identified by including “or the notes to the financial statements” following “in the financial statements”.

**2.2.2.12(A)(13) NMAC:** This subsection regarding specific criteria to be considered in planning and conducting governmental audits accounting for special capital outlay appropriations financed by bond proceeds was updated to remove paragraphs (a) and (b) to remove outdated references and avoid future outdated materials.

**2022 Audit Rule**  
**Summary of Proposed Changes**

**2.2.2.12(B)(2) NMAC:** This subsection pertaining to audits of housing authorities was updated to remove the provisions requiring discrete presentation or an exemption and replace such provisions with reference that IPAs shall use GASB guidelines as found in relevant GASBS to determine the correct presentation of the component unit, for alignment with 2.2.2.10(A)(1) NMAC.

**2.2.2.12(B)(5)(a)(ii) NMAC:** This subparagraph was updated to require an electronic version of the of the FDS in the audit report, instead of a hard copy.

**2.2.2.14(B)(6) NMAC:** This subsection was deleted as the OSA no longer requires out of state firms to maintain a New Mexico firm permit to better align with 61-28B-13 NMSA 1978, which allows out of state firms to practice without a New Mexico permit if they meet the requirements of the statute.

**2.2.2.15(A)(1) and (2) NMAC:** These subsections were deleted to move the definitions of fraud, waste, and abuse to the definitions section at 2.2.2.7 NMAC.

**2.2.2.16(B)(1) and (2) NMAC:** These subsections were updated to include tier levels for added clarity.

**2.2.2.16(B)(3) NMAC:** This subsection was updated to replace “the remainder” with “more” for clarity.

**2.2.2.16(K) NMAC:** This section was updated to refer the IPA to the current government auditing standards as opposed to the specific revision.